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# OVERSIGHT OF NHTSA AND THE OFFICE OF MOTOR CARRIERS

# HEARING

BEFORE THE

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND THE OFFICE OF MOTOR CARRIERS

DECEMBER 11, 1986

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# OVERSIGHT OF NHTSA AND THE OFFICE OF MOTOR CARRIERS

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THURSDAY, DECEMBER 11, 1986

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
*Washington, DC.*

The committee met, pursuant to notice, at 9:38 in room SR–253, Russell Senate Office Building, Hon. John C. Danforth (chairman of the committee) presiding.

Staff members assigned to this hearing: Alan Maness, staff counsel; Linda Morgan and Cheryl Wallace, minority staff counsels.

## OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. This hearing is something of a landmark for at least two reasons. For one it is the last hearing during my chairmanship of the Senate Commerce Committee and I think that it is notable that the last hearing is on the question of auto and truck safety, which have very much been a theme of the Commerce Committee for the past couple of years. It is my hope that they will continue to be themes in the future.

Second, I suppose this is a landmark because as far as I know this is the only congressional hearing that has been conducted or will be conducted for months at which Colonel Oliver North will not be asked to be a witness.

It is, I guess, common knowledge that I have been very critical in the past both of NHTSA and of the Office of Motor Carriers. My view of NHTSA for the past number of years, 5 or 6 years, has been that it has basically been in a process of backpedaling on questions of auto safety.

In 1981, the passive restraint rule was revoked by NHTSA. The new rule that was put into place has a so-called trap door provision which provides for the suspension of the passive restraint rule if two-thirds of the population is covered by mandatory seatbelt laws. I have viewed the mandatory seatbelt laws that have been passed by most of the States as being real shams with $5 fines and provisions that arrests would not be made unless automobiles were stopped for other purposes.

The exemption that NHTSA has allowed for convertibles is from the passive restraint rule is something that I don't understand. It seems to me that convertibles are at least as dangerous as other cars. They are certainly more expensive. They sell for a premium, and I don't understand why the same requirement shouldn't be imposed on them.

Beyond the question of passive restraints the reduction of the bumper standard from 5 miles an hour to 2½ miles an hour, the termination of rulemaking for side impact restraint, the fact that no action has been taken on light truck safety—so many Americans are driving pickups. They are driving vans.

These frequently used vehicles do not have requirements for head restraints, for side door beams, for roof strength. The lack of action of NHTSA on the splash and spray requirements which were due under the law in 1984 is another example—so far nothing has happened. All these combined have formed for me a background against which I judged the indication on the part of NHTSA that it was going to go along with Ford's request to extend the deadline for full front passive protection for an additional 4 years from 1989 to 1993.

When I heard that it said to me that, well, Ford is off the hook for 4 years. In examining this proposal it appeared to me that in exchange for a 4-year extension Ford had agreed to nothing at all, that Ford had agreed that in all likelihood, and that was its term, in all likelihood it would put driver side airbags in a majority of some of its cars, those of American design, but that after 4 years it would make no commitment to airbags at all.

That was how I read that proposal. Therefore, against a background of what I had considered to be and do consider to be NHTSA's steady backpedaling on questions of safety I was quite concerned that yet again the cause of passive restraints, and airbags in particular, had suffered a blow.

Now, I know that Diane Steed thinks that that is an unfair position for me to take and I know that Ford does, too. In the past week or so, representatives of the Ford Motor Company have visited with people on the Commerce Committee and they have indicated to them and their prepared testimony today indicates that their commitment to airbags is much greater than I had understood it to be.

If I was unduly harsh or rushed to judgment against either NHTSA or Ford for this I certainly did not intend to do that and this will be a hearing in which they can set the record straight and indicate that perhaps there is a greater commitment to airbags by both NHTSA and by Ford.

So we will have Diane Steed as a witness, and then later in the hearing we will get to the Office of Motor Carriers and Mr. Landis. Here again is an agency that I have been quite critical of in the past. It really appears to me that the Office of Motor Carriers has maybe—well, I am sure they do something but it is unclear to me exactly what it is.

In 1984, Congress required annual inspections of trucks. The Office of Motor Carriers hasn't even issued a notice of rulemaking relating to annual inspections. In 1984 we required the reissuance of regulations on drivers' hours of service. Again, nothing has been done. So we will have an opportunity to explore in more detail what the performance of OMC has been in the last few years and what their intention is in the future.

Now, before Ms. Steed gives us her views, there is a short film which we would like to show at this time.

[Film shown.]

The CHAIRMAN. Our first witness, as previously stated, is Diane Steed, administrator of the National Highway Traffic Safety Administration. Please proceed, Ms. Steed.

## STATEMENT OF HON. DIANE K. STEED, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY BARRY FELRICE, ASSOCIATE ADMINISTRATOR FOR RULEMAKING; JEFF REY MILLER, DEPUTY ADMINISTRATOR; AND ERIKA JONES, CHIEF COUNSEL

Ms. STEED. Thank you, Mr. Chairman. We are very pleased to be here today to discuss current vehicle safety issues, and before I get into my testimony let me introduce my colleagues. With me here at the witness table are Jeffrey Miller, Deputy Administrator, Barry Felrice, Associate Administrator for Rulemaking, and Erika Jones, our Chief Counsel.

Let me note also, Mr. Chairman, as you called this a landmark hearing, that we certainly appreciate your interest in highway safety and your dedication to those issues, and I hope you will continue with these efforts in your role here in the Senate in the future. Today I would like to report some very good news about highway safety, the bottom line results for 1985.

Our data show that the nation's fatality rate fell to an all-time low of 2.74 deaths per 100 million miles traveled. The number of people who died in traffic crashes decreased to about 43,795 in 1985 from 44,257 in 1984. That decrease in 1985 was in the face of a 3.3 percent increase in miles traveled during the year.

The record of declining traffic fatalities in 5 of the last 6 years is a record in which all of us can take great pride. This record is due, I think, to the combination of a number of interrelated factors, including perhaps most prominently the fight against drunk driving. But it also includes such factors as road improvements, some improvements in vehicles, and substantially increased use of safety belts and child safety seats.

Let me speak just briefly about the fight against drunk driving. We are continuing to experience substantial successes in getting drunk drivers off the road. Between 1980 and 1985, the number of fatally-injured drivers who were intoxicated at the time of their crashes dropped about 26 percent, and that is an unprecedented decline in drunk driving.

We think this decline is due to the cumulative effects of a number of things, such as greater public awareness brought to us by groups like Mothers against Drunk Driving and Students Against Drunk Driving, Remove Intoxicated Drunk Drivers and the other public interest groups, tougher State laws, stricter enforcement, and a decline in the population of young drivers legally allowed to drink.

That brings me to the age-21 laws. Twenty-two States and the District of Columbia have enacted such laws since the national minimum drinking age legislation was passed in 1984. We have advised a total of 42 States and the District of Columbia that their laws conform to the Federal requirement. We believe that this requirement and the rise in drinking ages will bring about a decline in the number of young people killed, injured, or involved in alcohol-related crashes.

In a study we did last fall, we estimated that about 700 lives were saved in 1984 by minimum drinking ages above 18, and that about 400 additional lives could have been saved that year by a uniform drinking age of 21 across the nation.

Let me turn now to the issue of light truck safety. Interest in issues related to light trucks has grown significantly in recent years as these vehicles have increased in numbers and diversity. Between 1971 and 1985, their market share almost doubled from 15 percent of light duty vehicle sales to 29 percent, and it is continuing to grow.

Much of this increase is in vehicles such as compact pickups and multipurpose passenger vehicles, which are often used for recreation and family transportation as well as for work purposes. Compact pickups and the new minivans, which many families are purchasing in place of station wagons, now account for more than 50 percent of light truck sales, up from only 10 percent in 1977.

Our Fatal Accident Reporting System recorded some 6,887 people killed in light trucks in 1985. To put that in perspective, that is compared to 22,963 people killed in passenger cars in 1985. Expressed as a fatality rate per 100,000 registered vehicles, the rate for all light trucks in 1985 was 20.2, and I should point out that that is just about the same as the rate for all passenger cars.

At this moment we are engaged in a review of the whole issue of light truck safety, in which we are focusing on the characteristics of individual types of light trucks because we do see differences in their safety performance. Our preliminary assessment is that there is a wide range of performance among light trucks, and some, like the vans, appear to have a lower fatality rate than passenger cars, while other vehicles, such as compact pickups, do have a higher rate than passenger cars.

Our first concern is with those vehicles that show the higher fatality rates. Our initial review of crashes involving compact pickups suggested that these vehicles are involved in a disproportionate number of rollover crashes and that a significant number of fatalities in those crashes involve occupants who are ejected. If this initial finding is supported by our subsequent analysis, it could point toward the need for better vehicle stability and for increased usage of restraints or other means of reducing occupant ejections, since that seems to be a major cause of fatalities.

We have already begun efforts to address both the stability question and the restraint question. Next spring we will be conducting research on the braking stability of light trucks in an effort to examine ways of improving their stability during emergency maneuvers.

We have also begun a rulemaking action to require the dynamic testing of safety belts in light trucks, which we expect to complete early next year.

At the direction of the House Appropriations Committee, we are developing our review of light truck safety into a report to the Congress that will address the safety problems associated with light trucks. It will evaluate improvements to enhance the safety of light trucks, estimate the costs and benefits of these improvements, and set a schedule for any appropriate regulatory actions. As a part of our report we will analyze crash data in detail to identify safety problems with any type of light truck and conduct engineering analyses of the vehicle structures and restraint characteristics of these vehicles. The report is due in April of next year, at which time we will be able to make a much more comprehensive statement on light truck safety and our recommendations to improve the light truck safety record.

Let me turn to rear seat safety belts. As you know, the National Transportation Safety Board released a study last August which called into question the safety of rear seat lap belts. In a letter to Secretary Dole, you urged the Department to adopt the recommendations of the Board by requiring the installation of lap and shoulder belts in the rear seat and by giving consumers information about how to retrofit their vehicles with these belts.

We have been talking with the manufacturers about this question to encourage them voluntarily to install lap and shoulder belts in the rear seats of passenger cars. In part as a result of these discussions, General Motors announced this summer that it would include such belts as standard equipment on selected 1987 models and on all passenger cars during 1988 and 1989.

Ford and Chrysler, since that time, have made similar commitments, although I might add that the specific time frames for equipping all cars with this type of lap and shoulder belt do differ among the companies. We have granted a petition for rulemaking asking us to require the installation of rear seat three-point belts, and we are in the process of gathering data and reviewing this matter closely. Once we have completed our review of both types of belts, we will make a decision about what further rulemaking steps are appropriate.

In a final rule issued last year, we acted to provide consumers with information that we believe will be helpful in retrofitting lap and shoulder belts in the rear seat. That rule requires manufacturers to provide information in their owner's manuals about the availability of lap and shoulder belt anchorages in the rear seat. This requirement takes effect September 1, 1987.

Now, while I am confident that our actions on rear seat lap and shoulder belts will ensure the wider availability of these belts, I am concerned that the Board's report may have seriously misled and confused the public about safety belts in general. As you know, the Board's study was based on an extremely limited number of frontal crashes, which really do not give a true picture of overall safety belt performance.

NHTSA and other organizations have conducted large-scale studies of rear seat lap belts, and our firm conclusion is that the public is better off wearing belts—whether in the front seat or the back seat, whether a lap belt or a lap and shoulder belt—than they are traveling by car unbelted, unprotected.

Many highway safety organizations have strongly endorsed belt usage at all seating positions and have expressed their concern over the Board's report. Our review of the subject of lap/shoulder belts for the rear seats will examine whether and to what extent the safety of rear seat occupants could be further enhanced by the addition of lap and shoulder belt installations.

Let me turn now to the subject of passive restraints. On June 11, the Ford Motor Co. petitioned us to amend standard 208 to permit a car with a driver's side airbag system and a manual lap/shoulder belt system for the passenger to continue to earn a one-car credit beyond the automatic restraint phase-in period.

The Ford petition was followed by what I think is really a remarkable series of supporting comments to the docket, not only from other manufacturers but from many of the insurance companies and safety organizations which have been active proponents of airbags.

The consensus of these commenters, and I might mention that it included such organizations as the Travelers Insurance Co., United Services Automobile Association (USAA), Nationwide, Aetna, State Farm, the American Insurance Association, the National Association of Indepedent Insurers, the Insurance Institute for Highway Safety, and the National Safety Council, was that the Ford petition appeared to represent a significant step toward the introduction of airbags as standard equipment.

After a careful evaluation of the safety effects of Ford's petition, we have tentatively concluded that extending the availability of the one-car credit for a driver-side airbag will encourage the orderly development and production of passenger cars with full-front airbag systems. The analysis done by Ford and the analysis that we have from the Insurance Institute for Highway Safety (IIHS) and our own analysis all show that a driver-side airbag system combined with a manual lap/shoulder belt for the passenger provides substantial safety benefits.

The use rate of automatic safety belts must be at or near 60 percent before the benefits of those systems exceed the benefits of driver-only airbags. This is true for even the lowest manual belt usage for the driver of 14 percent. Both the IIHS and our own analysis further show that unless automatic safety belt usage levels are extremely high, and by that I mean at or above the 70-percent level, a driver and passenger-side airbag yields the greatest benefits of the systems that we analyzed.

Therefore we have tentatively concluded that the projected benefits of a driver-side only airbag system warrant permitting that system beyond 1989 to permit the development of driver and passenger-side airbag systems which, when used with manual lap/shoulder belts, promise to have even greater effectiveness in reducing deaths and injuries.

We have therefore issued a notice of proposed rulemaking that would extend the credit for driver-side airbags. As suggested by IIHS, USAA, and other commenters, we propose extending that credit only for the time necessary to complete the development and installation of passenger-side airbags, which we currently estimate to be about 4 years beyond model year 1990.

However, we have asked for comment on this particular timeframe and whether or not this is the right amount of time to permit. We are also proposing that manufacturers must install dynamically tested lap/shoulder belts for the right front passenger seat in any vehicle that receives the one car credit beyond September 1, 1989.

Now, I would like to stress in the strongest possible terms that our proposal would in no way delay the date by which all passenger cars would be required to be equipped with passive restraints. We have consistently denied all requests for a delay, including a very recent request from Rolls Royce for a 4-month extension to the first phase-in period. September 1, 1989, remains the date for the installation of passive restraints in all passenger cars.

Our proposal to extend the credit for a few more years is designed to increase the percentage of those vehicles which will be equipped with airbags for the driver and ultimately for passengers as well. I also would like to call attention to the beginning of the phase-in period for passive restraints. Cars equipped with passive restraints are now beginning to enter dealers' showrooms. When consumers have the opportunity to see the new systems, including the airbags and the various types of automatic belt systems, we think that market demand will ensure that passive restraints are here to stay.

As an example, the Ford Motor Co. has been sponsoring what they call "safety days" at dealerships around the country to publicize the availability of airbags and their new automatic belts. These events have resulted in dealer orders for thousands of airbag-equipped cars and a new appreciation for automatic crash protection. I think Ford should be complimented for these efforts.

At NHTSA, we are doing everything we can to ensure that auto dealers are taking affirmative steps to inform the public about these new passive restraint systems. I think that is terribly important to the success of these systems. In a speech to the National Automobile Dealers Association (NADA) in September, I emphasized that the public has become much more interested in safety and that they, the dealers, have both an opportunity and a very real responsibility to promote this interest by informing their customers of the restraint options that are available to them.

As a result, the NADA has changed its policy and now supports passive restraints, publicly and formally. This represents, I think, a very significant change in attitude that I believe will be reflected in the sales of occupant restraints of all kinds, airbags as well as automatic safety belts. As you know, we are also providing the public with information about the new passive restraint systems. As an example, we have already distributed some 150,000 copies of a couple of new pamphlets on passive restraints, one that specifically addresses airbags only, the other that addresses all types of passive restraints, and about 350,000 copies of a pamphlet that shows parents how they can use child safety seats with these new automatic restraints.

In addition, the momentum over the last few years for safety belt use laws has grown steadily. Since Secretary Dole's July 1984, occupant protection decision, 26 States and the District of Columbia have enacted such laws. Now, unfortunately, referenda in the last election repealed two of these laws, one by less than 2/10ths of 1 percent of the vote. We were very disappointed, needless to say, with these results, since the belt use laws in those two States had resulted in increased belt use and noticeable declines in occupant deaths and injuries.

Despite this setback, we firmly believe that legislatures in other States will continue to enact safety belt use laws because of their great lifesaving and economic benefits to the public. We conduct, as you know, a 19-city survey of belt use, and our June 1986, survey's results show that in 8 of those 19 cities which are in States that have belt use laws, 49 percent of the drivers were buckling up.

The cities of Dallas and Houston, which was a little surprising to me, showed some of the highest belt usage at around 70 percent. The reports of the safety effects of these laws is very encouraging. In the eight States that had belt use laws during at least 3 months of 1985, front seat occupant fatalities in passenger vehicles were reduced about an averge of 7 percent during the months for which the laws were in effect, compared to the corresponding months of 1984.

For Illinois, fatalities during the last 6 months of 1985 were down 14 percent compared to the 5-year average for those months. Injuries have also shown a marked decline as a result of these laws.

In New York, we have a specific research project set up to look at the effect of that State's safety belt law on injuries. That law took effect January 1, 1985. A study of emergency room admissions is showing in the first quarter of 1985 about a 19 percent reduction in motor vehicle occupant injuries compared to the first quarter of 1984. So, in summary, we are very pleased with both the introduction of automatic restraints and with the results of the safety belt use laws in the States that have them.

Coupled with the introduction of automatic restraint systems, these laws are making a very real difference in the safety of the traveling public. We believe that the Secretary's occupant crash protection decision is working just as intended, producing both laws and automatic protection options for the public.

The goal of her decision has always been, I think, the same as this committee's, and that is to save as many lives as possible as quickly as possible. For the very first time we are able to measure the results or the effects of an occupant protection regulation in terms of lives saved. It is finally more than just words on paper.

This concludes my statement, Mr. Chairman, and contrary to what may be happening in other hearings, my colleagues and I would be happy to answer your questions.

The CHAIRMAN. Thank you very much. While it is true that fatalities declined in 1985, they increased in 1986, didn't they?

Ms. STEED. There seems to be an increasing trend but we do not have final numbers for 1986.

The CHAIRMAN. But I mean you would not think of claiming victory in the war against death on the highway, would you?

Ms. STEED. Absolutely not. We have a long way to go and we will continue vigorously to pursue safety.

The CHAIRMAN. Now, I think what you said or at least the thrust of what you said is that you believe that as a safety device airbags are preferable to other kinds of restraints.

Ms. STEED. We have said before that the combination of airbags and belts is preferable, because I firmly believe that even with airbags in the car people need to be belted to provide superior protection.

The CHAIRMAN. And you would rather have an airbag on the driver side of the car than other belted passive restraint systems on both sides?

Ms. STEED. I would like to see driver-side airbags available widely in this country as options for a couple of reasons. First of all, they do provide very good protection; and second, the wide availability of driver-side airbags will get that technology out to the public, let the public understand airbags, get rid of all of these myths and misconceptions that have been around for years, and also bring the cost down for airbags overall, and that includes the passenger side.

The CHAIRMAN. Well, those misconceptions are misconceptions. I mean, people have the idea that somehow they will malfunction, but airbag technology has been with us now for what, 12 or 13 years? Something like that?

Ms. STEED. Oh, at least. Yes.

The CHAIRMAN. And they clearly work and they do not malfunction. Isn't that right?

Ms. STEED. That is correct. And our hope is to get rid of those myths and misconceptions. In fact, that is part of why I went to NADA, because I was hearing dealers repeating these misconceptions, and we very much want that to stop. So we are working with NADA to get the information out.

The CHAIRMAN. But purely as a safety measure is it your view that if you have to choose between the two you would rather have an airbag in the driver side only than to have passive belts in both the driver and passenger side?

Ms. STEED. Yes, I would like to see airbags on the driver side as standard equipment.

The CHAIRMAN. As purely a safety matter?

Ms. STEED. Yes, sir.

The CHAIRMAN. Now, it is my understanding, and Ford will testify for itself, that Ford's position is that while the technology is available for airbags on the driver side that technology is not yet available on the passenger side. Is that your understanding of their position? Do you give credence to that?

Ms. STEED. Essentially that is their position: that they need additional time to work out a few technical problems, that they have a resource problem as well as an engineering problem within the company in that they could not develop both systems at the same time, and that they need extra time in order to do that.

The CHAIRMAN. Do you think that that is a sound position to take? Do you believe that?

Ms. STEED. Yes, having talked to a number of the companies and having heard from airbag suppliers, I do.

The CHAIRMAN. Do you believe that the Ford Motor Co. is committed to installing airbags in cars?

Ms. STEED. I do indeed. I will tell you that I was skeptical at first of their proposal, but after doing a little research and asking a few more questions I have become convinced that that company is firmly committed to airbag technology.

The CHAIRMAN. It appeared to me that you got nothing in exchange for the extension, that there was no quid pro quo. It appeared to me that all Ford said was that in all likelihood it would put driver side airbags in a majority of some of its cars during the interim period but that after the interim period, after the 4 years is up, then it would make no commitments to any airbags anywhere.

Is that your understanding of their position? In other words, have you given them an extension in exchange for no commitment at all?

Ms. **Steed**. No, I don't believe that, Senator. First of all, in order to take advantage of the credit they must install airbags on the driver's side. I am convinced that they are committed to putting driver-side airbags on most of their passenger cars, so I think we are going to get many, many more driver-side airbags during the interim period.

The **Chairman**. So you think that in all likelihood or in more than all likelihood that was the commitment?

Ms. **Steed**. Yes, sir, I do.

The **Chairman**. That is my understanding of their testimony today, that it is a commitment?

Ms. **Steed**. Yes. That is my understanding also.

The **Chairman**. But how about at the end of the 4 years. Is there any commitment there?

Ms. **Steed**. I believe that they are moving toward that, and in answer to a number of questions that we asked about their petition, they have given us confidential business plans that convince me they are going to be working on passenger-side airbags. I do believe that they are committed to working out that technology.

The **Chairman**. OK. Now, this sounds repetitious, but it is most important. Is it your view that it is clearly desirable to see airbags installed in cars? I know that you want belts plus bags. You want education and so on. But the very simple, very direct question is this. Is it your view that from the standpoint of safety it is desirable to have airbags installed in automobiles?

Ms. **Steed**. A very simple, very direct answer. Yes, sir.

The **Chairman**. Now, the so-called trapdoor provision, you testified that you believe that the Secretary's decision is working just as she intended. Are you satisfied with the mandatory seatbelt laws that have been passed by the various State legislatures? Did they meet the criteria set out by the Secretary, in your opinion, or do you believe that they are—that at least some of them are shams?

Ms. **Steed**. Let me say that I am very pleased with the development of those laws and to see so many enacted. They do differ. As you know, we have not stated publicly whether or not all of those laws meet the criteria in the rule. Obviously, if you look at the laws and you look at the criteria anyone can tell that they don't all meet all of the criteria. But I think we also have to look at what is happening as a result of those laws, that belt use is increasing by leaps and bounds and that we are saving lives with those laws, and I think that is progress.

The **Chairman**. For one reason or another seatbelt use may be increasing, but the question is, Do these mandatory seatbelt laws enacted by the legislatures meet the requirement of the Secretary's decision, therefore triggering a demise of the passive restraint rule?

Ms. **Steed**. Approximately 69.9 percent of the population is now covered by some sort of safety belt use law. In the State Farm Mutual case that was recently before the U.S. Court of Appeals for the D.C. Circuit we said that not all of those laws met the criteria.

For example, California, which has about 10 percent of the population has enacted a safety belt use law that by its terms is void if the Secretary rescinds the passive restraint requirement. At about this time last year, the Secretary said that she would be providing to the States informal advice as to whether or not they meet the criteria. However, shortly after that, the U.S. Court of Appeals for the D.C. Circuit invited us back for a rehearing of the arguments, and we made a public policy decision not to go into the specific criteria of each State law.

Now that the case is behind us, I am in the process of putting together letters to the Governors to point out what their laws look like in relationship to our criteria and pointing out any differences. I would hope to have these letters out in the relatively near future.

The **Chairman**. Well, here is my concern. Let's say that Ford is making a bona fide effort to go forward and develop airbags which you believe and I believe is the desired technology. GM, Chrysler, other automakers are not going forward. My concern is that a year from now, 2 years from now they will say, "Well, I mean, we have got these State laws and that is sufficient, and if they are not sufficient, well, this is a surprise." We did not anticipate this. We have to have a further extension just because we have delayed relying on the States passing these laws.

In other words, are we just in a kind of endless process, particularly insofar as General Motors, Chrysler, and other automakers are concerned, an endless process of making excuses and delaying and kind of whining about how unfair all of this is and how impossible it is.

Ms. **Steed**. Let me say a couple of things, Senator. First of all, I believe you are not correct and that you will hear today from the auto companies, GM and Chrysler, that they also are moving forward with airbags. You should ask them—obviously you will—what their plans are for airbags.

Second, there really is no extension of the September 1, 1989, deadline by which automakers must equip their cars with passive restraints. I really view the Ford petition as an incentive to airbags and I genuinely believe that extending the credit for driver-side air bags is going to put many thousands of airbags out on the road. I believe that the kind of requests for delay and the endless process that you are concerned about is a historical view. I believe that time has passed. I genuinely do. And I think you will hear that today when you hear from the auto companies. I believe that if that were not the case we would have heard loud and long from the auto companies already about the trigger mechanism after the State Farm Mutual case was over.

The **Chairman**. Briefly, on rear seatbelts, do you plan to open a rulemaking on rear seatbelts.

Ms. **Steed**. We have granted a petition that says, yes, we are planning to open a rulemaking to consider whether or not to require the installation of lap/shoulder belts in the rear seats of passenger cars.

The **Chairman**. What would be the timetable on that?

Ms. **Steed**. I would hope we could have some sort of notice put together within the next couple of months.

The **Chairman**. And what would that mean then, the notice put together in a couple of months and what?

Ms. **Steed**. If we had a notice out we would have to allow 60 days for public comment, which is our general practice, and we would probably make a final decision some time next summer or fall.

The **Chairman**. OK. Now let's go to light trucks. It would seem to me that this would be a clear case. I don't know. It would just seem to me that it would be a very clear case that if there is no side beam in a truck and there is in an automobile, something is wrong. If there are no head restraints in a light truck and there are in an automobile and these pickups have glass behind the driver's head, that something is clearly wrong.

Do you think we can move forward and perhaps have a rulemaking with respect to light trucks and get these fairly clear issues resolved?

Ms. **Steed**. I saw the piece that you showed this morning when it was shown on television last fall, I believe. It very much concerned me, so I started immediately looking into the safety of these vehicles. Once you look at the safety concerns, take the issues apart and get into the details, I believe that the picture is not as bleak as was painted here. I believe it is even somewhat misleading. In many cases the fact that some passenger car standards do not apply to light trucks simply does not provide the whole picture truth.

Head restraints, for example, are really not there to protect occupants from fatalities. They protect occupants from very minor injuries. We see very few fatalities from a rear-end collision because a head restraint is not there, and I must tell you that over 60 percent of all light trucks or vans are equipped with head restraints as either standard or optional equipment.

If you look at side impact, we see that fatalities as a consequence of side impact are really a much smaller proportion of 1985 fatalities for light trucks as compared to passenger cars. Only about 14 percent of fatalities in light trucks occurred in side impacts as compared to about 30 percent in automobiles.

The **Chairman**. You think light trucks are safer for side impact crashes than automobiles?

Ms. **Steed**. Yes; I do, as shown by the data. I do believe that. Now, that is not to say that we are not going to look at whether or not side impact protection, head restraints, as well as other features might not be improved through further rulemaking. We indeed will. All I am trying to say is that as we get into the review of the data we see that light trucks as a class of vehicles are, from a safety standpoint, about the same as automobiles are. However, within that class of light trucks, there may be categories that are less safe, and that is exactly where we are concentrating our review.

The **Chairman**. Is it true that there are no minimum roof strength requirements for light trucks?

Ms. **Steed**. That is correct.

The CHAIRMAN. Do you see any possibility that that would be a sufficient safety requirement, zero?

Ms. STEED. We are looking into that, but let me tell you, Senator, from looking at roof strengths and talking with the companies, we know that several companies design their light trucks to automatically incorporate the same roof strength or roofcrush strength protection that they have for their cars. We are going to be testing to see whether or not that is true.

The CHAIRMAN. But I mean they are not covered by any requirement. Do you mean this is a voluntary situation? If they want weak roofs they can have them, but if they want strong roofs, more power to them? Is that your position?

Ms. STEED. No. First of all, I am saying that many if not all of these vehicles, already meet the roofcrush strength resistance that passenger cars meet.

The CHAIRMAN. Many but not all are?

Ms. STEED. Most, if not all, are, I would say.

The CHAIRMAN. And that is sufficient?

Ms. STEED. We are looking at that. We are going to do some testing to see how they perform, to see whether there are any differences in classes of light trucks.

The CHAIRMAN. But is it conceivable to you that we could have no standard for roof strength on light trucks?

Ms. STEED. If we see no safety benefit from extending the standard to light trucks, given how they now perform, I am not sure that we ought to be putting our resources into the status quo. I think we ought to be looking for ways to increase safety.

The CHAIRMAN. So, that is a real possibility as far as NHTSA is concerned, it is a real possibility that there would be no standards whatever for roof strength for light trucks.

Ms. STEED. If there is no safety benefit that would be gained, Senator, I would be more interested in putting my resources where we could be making an actual improvement in safety. I do not want to prejudge this matter, but I am telling you that——

The CHAIRMAN. I must say that as a Missourian that is the show-me attitude in the extreme.

I mean that there is a real doubt in your mind that no standards at all on roof restraints might be adequate.

Ms. STEED. If all light truck manufacturers are providing adequate roofcrush resistance protection, why should we spend our engineers' time and talents writing a standard that they already meet?

The CHAIRMAN. And the same with the side beams?

Ms. STEED. We would have to look at that, too. Our evidence at this point, and I must say it is preliminary evidence, shows that light trucks are safer from a side impact standpoint than automobiles. I should point out that we tried to make some of these points to the people of "1986" when they were preparing that segment, but they were not interested in these facts.

The CHAIRMAN. How about the rear high-mounted stoplights? Now, we did put it in the statute, as I recall, but it was something that NHTSA agreed to, and you did not——

Ms. STEED. Oh, it is not in a statute. We issued that regulation in 1983.

The CHAIRMAN. Oh, really? I thought maybe I had it in the bill and it never got enacted. In any event it is something that NHTSA has agreed to, the high mounted stoplights in automobiles, but that doesn't apply to light trucks, does it?

Ms. STEED. It does not at this point, no.

The CHAIRMAN. Why not?

Ms. STEED. Well, in part because the whole idea of a high mounted stoplight was to get the stoplight at eye level. If you look at light trucks, their tail lights are already higher than the ordinary passenger car.

The CHAIRMAN. In vans also?

Ms. STEED. Vans also. So, what we are looking at is whether or not adding a center high-mounted stoplight would make a safety difference.

The CHAIRMAN. What is the reason for not covering convertibles with passive restraint requirements?

Ms. STEED. We really have not exempted convertibles except during the phase-in, and I do not think that really makes much of a difference, frankly, since the auto manufacturers choose which lines they will put passive restraints in during the phase-in period. But as of September 1, 1989 they are no longer exempted.

The CHAIRMAN. But during the phase-in period they are?

Ms. STEED. That is correct, but convertibles are about 1 percent of the fleet, and my guess is——

The CHAIRMAN. Why would they be excepted at all?

Ms. STEED. The manufacturers asked us, during the 208 rulemaking, to exempt convertibles, and we agreed to do so during the phase-in, but I don't think that makes any difference.

The CHAIRMAN. Well, it does to the people who drive convertibles.

Ms. STEED. We couldn't have required the manufacturers to install automatic restraints in convertibles during the phase-in anyway. It is the manufacturer's choice as to which car lines they will equip with passive restraints.

The CHAIRMAN. Yes, but why should the Government then be involved? I mean, why should you specifically grant them an exemption?

Ms. STEED. Good point. I do not think that it made any difference.

The CHAIRMAN. Have you tentatively agreed to permanently exempt them?

Ms. STEED. No, sir, we have not. I am very concerned about convertibles and we are looking very closely at them.

The CHAIRMAN. Does NHTSA plan to open a rulemaking at any time in the foreseeable future with respect to side impact protection?

Ms. STEED. Yes, we are very cognizant of the guidance that was provided in our reauthorization bill, which did not pass this year, and I am committed to improving side impact protection. As a matter of fact, I have Mr. Felrice's staff working on the economic analysis, the regulatory analysis, and preparing a notice.

The CHAIRMAN. You are preparing a notice?

Ms. STEED. We are working on it. Yes, sir.

The CHAIRMAN. How about splash and spray? In 1983 Congress required splash and spray standards for trucks and all new trucks were to meet the standard by January 1984. That was almost 3 years ago. So far NHTSA has not announced any standard. What is the problem.

Ms. STEED. A couple of things. First of all, in our review and in our research we have seen that the installation of splash and spray suppression devices does not seem to make any difference. They do not solve the problem that I firmly agree exists with large trucks. You can see a difference in the trucks equipped with these devices by means of laser measurements, but it is very difficult, if not almost impossible, to see a difference that is perceptible to the average human eye.

In doing some recent testing, we announced that we were going to look at problems concerned with winter durability and so forth, and perhaps safety problems. We got comments back that our test procedure in a test tunnel did not really represent the real world, where it might show very different measurements. The same flap put in the test tunnel might show very different measurements in a field test, so we really couldn't tell whether we had a good product or not based on these tests.

Finally, we seem to be seeing that the aeroaid device, which a wind deflection device on top of the truck cab, may make a greater difference in solving some problems than do the splash and spray devices, the skirts, the flaps, and so forth. That is where we are, and we are doing some additional work. We will be doing some additional work on aeroaids, for ecample. But at present we aren't convinced that splash and spray suppression devices alone solve the problem that I know you want solved.

The CHAIRMAN. You don't think there is a difference between one kind of mudflap and another with respect to splash and spray? You are not convinced that as far as human perception is concerned, you are not convinced that there is a difference or that there is such a thing as a better mudflap?

Ms. STEED. I think there are differences among mudflaps. I am not sure that we have seen the kind of differences in our tests that demonstrates that any of them really provide sufficient differences in visibility or sufficient protection that really make a difference on the road.

The CHAIRMAN. So, for example, when United Parcel Service puts in what it believes to be the advanced kind of mudflap with skirts and so on on the side, you think that there is no perceptible difference between that system and the ordinary mudflap on the ordinary truck?

Ms. STEED. We have not seen in our tests, and believe me I have looked at the video tapes, that those kind of advanced devices do enough to make a perceptible difference to the human eye. You can measure it with a laser, but whether the devices make a real difference on the road is another question. We have seen that as little as an 8-mile-an-hour wind can largely destroy all of the benefits that these devices provide. It is a real problem.

The CHAIRMAN. Do you suspect that they are wasting their money?

Ms. **Steed**. To solve this problem? To solve the splash and spray problem?

The **Chairman**. Yes.

Ms. **Steed**. That may be. We have not found the solution.

The **Chairman**. OK. Thank you very much, Ms. Steed.

Next we have a panel consisting of Clarence Ditlow, director, Center for Auto Safety, Brian O'Neill, president, Insurance Institute for Highway Safety, and Lt. Col. Richard Grumney, assistant superintendent, Ohio State Highway Patrol.

Mr. Ditlow, would you please go first.

## STATEMENTS OF CLARENCE M. DITLOW III, DIRECTOR, CENTER FOR AUTO SAFETY; BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY; AND LT. COL. RICHARD GRUMNEY, ASSISTANT SUPERINTENDENT, OHIO STATE HIGHWAY PATROL

Mr. **Ditlow**. Thank you, Senator.

This past September marked a landmark occasion in auto safety. Mandatory installation of lifesaving passive restraints began.

In the 18-year history of FMVSS, including seven final rules by six Secretaries of Transportation, a deadline for the installation of passive restraints has come and been met.

Mandatory passive restraints will be installed in 10 percent of all 1987 cars, or over 1 million vehicles. Seemingly the beginning of the end of what the U.S. Supreme Court called the regulatory equivalent of war against the airbag, the automobile industry will install the superior lifesaving airbag in 125,000 of these cars and automatic seatbelts in the rest.

The center's analysis of public manufacturer airbag plans through 1990 conservatively shows that 1.3 million cars in that year will have airbags. And, even if Ford Motor Co. were not included, there would still be 800,000 airbag-equipped cars in 1990.

With the airbag finally being installed in cars in significant numbers, public demand will lead to airbags dominating the market.

In response to a petition from Ford, DOT has proposed to extend the driver-side-only airbag option until 1994. In return for at least this 4-year extension, Ford is committed to, in all likelihood, installing driver-side airbags in the majority of its North American designed car production.

If carried out, this tentative commitment could be as few as 500,000 cars, or less than what the other manufacturers will produce.

The certain downside, though, to the Ford proposal is the loss of passenger airbags for those companies who will install full-front airbags as soon as DOT requires full-front passive protection, even on a phased-in basis. Any upside to Ford's proposal has been concealed to the public to date by claims of confidentiality.

I can only contrast DOT's analysis to that of EPA, when catalysts were put on cars in 1975, because EPA called in the contractors, put into the public record the details of plant size, construction dates, and commitments to the auto companies for supplies.

To the extent that there are legitimate problems with doing full-front airbags in 1990, the solution is to phase in passenger airbags, just like driver airbags. Thus, in 1990, 10 percent of all airbag cars would be required to be equipped with full front-seat airbags. This would not only force Ford to do what it says it is going to do, but also would get full front-seat airbags from manufacturers, such as Mercedes, who plan to install these systems across the board when DOT first requires them.

The bottom line for the Center for Auto Safety is that Secretary Dole's final rule is working. Airbags are and will be produced in such increasingly large numbers that they can't be stopped unless the rule is changed.

To this point, there has been no public documentation of any need to change a working rule that will save so many lives.

After so many years of delay and false promises and false starts, it would be wrong to fix something that is not broken.

On the issue of convertibles, DOT's recent exemption of convertibles on the ground that this requires airbags and would be too expensive, is totally unjustified.

First of all, convertibles are sold at a premium, far in excess of the price of the comparable sedan. The center's analysis shows that there are price differentials as high as $10,750 for cars such as the Buick Riviera for a convertible over the sedan. And, even if the price of the airbag were $800, this would be no deterrent to sales; and, indeed, adding airbags to convertibles would actually boost their sales because they would be demonstrably safer in crashes.

On the issue of light truck safety, until the showing of NBC's "1986" program, the public was almost totally unaware of the fact that vans and pickups do not have to meet the same safety standards as cars and station wagons. All too often, they only found out after they were injured in a crash.

Now, when less stringent safety standards were first set for vans and pickups in the late 1960's, there may have been some reason for exemption, since these vehicles then weighed substantially more than passenger cars and were not used for the same purposes. Since then, these vehicles have shrunk in size, to where you can find compact vans and pickups that weigh 2,000 to 2,500 pounds, and are used for the same purposes as passenger cars.

Since the center, GAO and others have called on DOT to extend all passenger safety standards for vans, they have done so moderately in the late 1970's, but have abandoned all plans in the 1980's.

It is time to end the delay and give equal safety protection to vans and light trucks.

I would like to make one comment in regard to the Administrator's theme. I am absolutely baffled how the Administrator can say that it is a waste of resources to set safety standards for vans and trucks, because they are meaningless, when at the same time she is willing to spend the safety resources of the agency to exempt convertibles when she says that is meaningless because it is not required by the standard.

You can't have it both ways. Let's put some resources into improving safety and get it into the vans and trucks as well.

Thank you.

[The statement follows:]

## STATEMENT OF CLARENCE M. DITLOW III, DIRECTOR, CENTER FOR AUTO SAFETY

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on highway safety oversight. The Center for Auto Safety is a non-profit organization founded by Consumers Union and Ralph Nader in 1970 but is now independent of both. The Center works to improve vehicle and highway safety. My testimony will focus on passive restraints and light truck safety standards.

### PASSIVE RESTRAINTS

September 1, 1986, marked a landmark occasion in auto safety—mandatory installation of lifesaving passive restraints began. In the 18 year history of FMVSS 208 including 7 Final Rules by 6 Secretaries of Transportation, a deadline for the installation of passive restraints has come and been met. After what the first National Traffic Safety Agency Administrator William Haddon, Jr., called "A Chronological History of Delay",[1] mandatory passive restraints will be installed in 10% of all 1987 passenger cars or over one million vehicles. Signaling the beginning of the end of what the U.S. Supreme Court called "the regulatory equivalent of war against the airbag",[2] the automobile industry will install the superior lifesaving airbag in 125,000 of these cars and automatic seat belts in the remainder.

Under Transportation Secretary Elizabeth Dole's July 1984 Final Rule, 25% of the 1988 models must have passive restraints, 40% for 1989 models and 100% for 1990. In 1987–89, the passive restraint requirement may be met by automatic seat belts, full front airbags, or driverside only airbags. In 1990, the only options are full front airbags or automatic belts. The Center for Auto Safety has done an analysis of the public record on manufacturer airbag plans through 1990 which conservatively shows that 1.3 million cars in that year will have airbags. Even if Ford drops airbags, there still will be 800,000 airbag equipped cars in 1990.[3]

With airbags finally being installed in cars in significant numbers and in increasing availability, public demand will lead to airbags dominating the market. According to a recent *Newsweek* poll of 15,475 1986 new car buyers, 87% believe "airbags should be standard equipment on all new cars." Market research done by GM throughout the 1970's showed the majority of the American public prefer airbags to other forms of occupant restraints. A 1979 GM survey found 70% preferred airbags to three different systems of automatic belts. The reasons why the airbag will dominate the market and why the auto industry didn't win the regulatory war is simply the lifesaving airbag is too good a technology to kill.

### FORD PROPOSAL

In response to a petition from Ford, DOT has proposed to extend the driverside only airbag option until 1994. In return for at least a four year extension, Ford has committed "in all likelihood" to installing driverside airbags "in the majority of its North American-designed car production." If carried out, this tenative commitment could be as few as 500,000 cars or less than what other manufacturers have stated they will produce in 1990.

In addition to unnecessary delay, the certain downside to the Ford proposal is the loss of passenger airbags for those manufacturers such as Mercedes who plan to install full front airbags as soon as DOT requires full front passive protection, even on a phased-in basis.[4] While Ford claims there are supplier and leadtime problems with meeting 100% passive protection in 1990, other manufacturers have solved these problems.

The public can't judge the merits of Ford's arguments because Ford claims confidentiality. This major decision which can save at least 10,000 lives annually should not be made behind closed doors. When EPA was considering Ford and GM claims that catalysts could not be put on 1975 cars because of supplier and leadtime problems, EPA refused to make any information confidential and called in the suppliers for sworn testimony about details of any leadtime and engineering problems. Specific contractual commitments were examined and required before EPA ruled. If an auto company did not have a binding contract with a supplier, EPA refused to find the company making a good faith effort to meet the 1975 emission standards. EPA's public hearings and record even went into details of plant size, construction dates and whether more money from the auto companies would speed production of catalysts.

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[1] Submitted for the hearing record is an Insurance Institute for Highway Safety publication, "Air Bags: A Chronological History of Delay," written under the leadership of Dr. Haddon, the President of the Institute in 1984 when the publication was written.

[2] *Motor Vehicle Manufacturers Ass'n* v. *State Farm Mutual Automobile Insurance Co.*, 103 S. Ct. 2856, 2870 (1983).

[3] The complete Center analysis is attached.

[4] When full front passive restraints were required to be phased-in over a 3 year period beginning with large cars in 1982 under Transportation Secretary Brock Adams' Final Rule, Mercedes would have installed full front airbags in all models if the Rule had not been delayed by Transportation Secretary Drew Lewis. October 26, 1981, letter from Mercedes Vice-President Karl-Heinz Faber to Ralph Nader, a copy of which is attached.

In contrast to EPA's public detailed good faith analysis of leadtime requirements, DOT is engaged in a secret vague good hope analysis of the merits of Ford's leadtime arguments. What DOT should be doing is exactly what EPA did—call in the suppliers and put in the public record the contractural commitments of Ford and the other auto companies to produce airbags.

To the extent there are legitimate problems with doing full front airbags in 1990, the solution is to phase-in passenger airbags just as driver airbags are being phased-in. Thus in 1990, 10% of all airbag cars would be required to be equipped with full front seat airbags. This would not only force Ford to do what it says it is going to do but also would get full front seat airbags from manufacturers such as Mercedes who plan to install such systems across the board when DOT first requires such protection.

The bottomline is that Secretary Dole's Final Rule is working. Airbags are and will be produced in such increasingly large numbers that they can't be stopped unless the Rule is changed. It is obvious that the "trapdoor provision" for voiding the Rule upon enactment of mandatory seat belt laws will not be implemented so that the only danger is reopening the Rule through the Ford proposal. To this point, there has been no public documentation of any need to change a working rule that will save so many lives. After so many years of delay and false promise, it would be wrong to fix something that isn't broken.

## CONVERTIBLES

DOT's recent exemption of convertibles from the passive restraint requirement on the ground that this requires airbags and would be too expensive is totally unjustified. First, convertibles are sold at a premium far in excess of the price of the comparable sedan. The cheapest incremental price for a convertible is $2500 with the moderate Alliance convertible costing $3895 more than the sedan while luxury GM convertibles such as the Buick Riviera costing an incredible $10,750 more than the sedan. Even if the price for airbags were set at $800 (far more than cost), there would be no deterrent to sales.

Adding airbags to convertibles could actually boost sales because they would demonstrably increase their safety. In fact, convertibles have not had a meaningful improvement in occupant protection since 1965 when lap belts became standard equipment. DOT's 35 MPH crash test program fully demonstrates the need for safety improvements in convertibles as they score much worse than their sedan counterparts when tested.[5]

## LIGHT TRUCK SAFETY

Until the showing of NBC's recent 1986 program on light truck and van safety, the public was almost totally unaware of the fact that vans and pickups do not have to meet the same safety standards as cars and stationwagons. Even though these vehicles are used to carry families and recreation, they do not have to meet such significant safety standards as side impact, roof strength, head restraints, bumper protection, passive restraints and high-mounted brake lights.

Many consumers do not realize their new compact van or pickup did not meet all safety standards until they have been injured in a crash. For example, Dan Barden and Larry Clark of St. Louis were injured in a 1985 Ford Ranger when it was rear-ended. They called to complain to the Center about the lack of head restraints which would prevent head and neck injuries. Jenny Taylor of Maryland was not so lucky. She died from a broken neck in a 1985 Toyota pickup despite wearing her seat belts.

Consumers want the same safety standards for their vans and pickups as for cars. Since the 1986 program, the Center has received numerous complaints from the public about the lack of adequate safety in these vehicles. For example, David Swan of Pasadena wrote Chrysler President Lee Iacocca after leasing a 1986 Plymouth Voyager "represented as a family vehicle."

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[5] The Center's price and crashworthiness of convertibles is contained in the attached comment to DOT's FMVSS 208 rulemaking docket.

I find the promotion and marketing of these vehicles in the United States by Chrysler Corporation to use as a passenger vehicle in 1986 which are substandard in terms of safety to be one of the most cynical and deadly decisions made since the Ford Pinto was marketed.

I would like to be able to turn this unsafe vehicle into my local dealer and tear up the lease contract.

When less stringent safety standards were first set for vans and pickups in the late 1960's, there may have been some reason for exemption from some standards since these vehicles then weighed substantially more than passenger cars and were not used for the same purposes. Since then, these vehicles have shrunk in size and are used for the same purpose as passenger cars. In the earlier 1970's, the Center petitioned DOT to extend all passenger safety standards to these vehicles without success.

In 1978, the General Accounting Office issued a stinging report entitled "Unwarranted Delays by the Department of Transportation to Improve Light Truck Safety" which pointed out light trucks had become increasingly popular and the number of people killed in them had increased. GAO specifically noted light truck occupants fared worse in crashes than occupants of cars and called on DOT to impose passenger car standards on these vehicles. Although DOT extended some additional safety standards to light trucks after the GAO report, the major ones noted above were not adopted even though DOT indicated it would do so in its 5-year program plan in 1979.

The CHAIRMAN. Thank you, Mr. Ditlow.

Mr. O'Neill.

Mr. O'NEILL. Senator, at the committee's request, I am submitting for the record information from the Institute on truck safety, front seat automatic occupant protection, rear seat safety belts, and light truck safety. I will summarize my written testimony.

First, I would like to address truckdrivers and hours of service.

At the present time, Bureau of Motor Carrier Safety Regulations require that truckdrivers operate not more than 10 hours, following 8 hours off duty, not more than 60 hours in any 7 consecutive days. And drivers are required to maintain written logs of their driving hours and may be prosecuted for failure to do so.

The purpose of these logkeeping and hours of service regulations is to reduce truck crashes caused by fatigue. But these requirements are not working. Drivers often refer to their logbooks as comic books, and double bookkeeping is widespread.

The percentage of Bureau of Motor Carrier Safety truck inspections finding logkeeping and hours of service violations serious enough to put the driver out of service nearly doubled between 1983 and 1984.

State inspections supply further evidence of abuse. In Oregon, 8,900 inspections in 1984 produced 1,700 logbook violations. Among 15,000 truckers inspected so far in 1986 in Tennessee, up to a third of the drivers haven't had logbooks or their books were incorrect.

This is clearly an issue that is causing safety problems on the highways.

A 1985 study conducted for the American Automobile Association concluded that fatigue is the probable or primary cause of 41 percent of heavy truck accidents.

The study, I might add, also estimated that on any given day, 1 out of 3 interstate truckdrivers is exceeding BMCS's 10-hour-per-day regulation.

To address this problem, the Institute has petitioned the Bureau of Motor Carrier Safety to require automatic, on-board devices, such as tachographs or on-board computers that record when the trucks are being driven and monitor their driving hours.

I have a tachograph with me here [indicating]. These are relatively inexpensive devices, and they substantially reduce the chance of falsified, erroneous, and inaccurate records, as well as ease the burden of recordkeeping. They are also useful in monitoring truck speeds, and they can also provide valuable information after a crash.

On-board recorders have been required and used with success in Europe for about 10 years now. They have been used by many hazardous materials carriers in this country for as long as 20 years.

These devices should be on many more big trucks in the United States.

The devices will not eliminate crashes caused by driver fatigue, but they will reduce the magnitude of the problem and help insure compliance with existing truck safety regulations.

Turning now to the automatic restraint standard and specifically the Ford petition, I respectfully disagree with Clarence Ditlow on this issue. We believe that the only effect, or the principal effect, of this amendment would be that manufacturers would find it much easier to choose airbags instead of automatic seatbelts to comply with the standard.

Without the amendment, we believe that airbags are likely to be installed in only relatively small numbers of expensive cars.

I know it is being claimed that the proposed amendment will slow down the phase-in of automatic restraints too much and that full front-seat airbags could be installed in 1991 models at the latest—in other words, with a 1-year extension.

This would be a welcome scenario if it could work, but we don't believe it could.

We at the Institute have for some months been in contact with major suppliers of airbag components across the country. They confirm that their manufacturing capacity is not sufficient at present to provide large numbers of airbags, especially those for the passenger side, to meet either a 1990 or even a 1991 deadline. These suppliers have an economic interest in getting as many airbags as possible into cars as fast as possible.

I might also add that these same suppliers would be the first to say that FMVSS 208 should not be rescinded or weakened in any significant sense. But they strongly support the amendment proposed by Ford because of the need to build up their manufacturing capacity.

An additional complication is the fact that automatic restraints, both airbags and automatic seatbelts, aren't modular components that can be simply tacked on to a wide range of car models. Each individual model with an airbag system requires separate engineering development and crash testing programs. It wouldn't be responsible to pace the phase-in of airbags ahead of these constraints.

Between now and September 1, 1989, most cars during the phase-in period will be equipped with automatic seat belts. The key issue here is use: will the belts manufacturers are choosing increase the number of people who are buckled up, or will use rates be only marginally higher than presently with manual belts.

As early as 1981, a General Motors spokesman told the U.S. Department of Transportation, and I quote: "Some designs of automatic belts are better than others."At this same hearing, Ford said: "Automatic belts that can be detached easily are simply another form of manual belts."

Chrysler added that many of the belts to be introduced in compliance with FMVSS 208 are automatic only, "under the narrow definition" and "will be actively annoying to the people who use them."

We agree because, unfortunately, some of the automatic belts being used in 1987 cars are easily detachable. Some are uncomfortable when they are fastened, and some are difficult to reattach. These kinds of belts are extremely unlikely to produce high use rates, a disappointing prospect because increasing use rates is the sole purpose of automatic belts.

No matter what belt design is chosen, it is important to remember that automatic safety belts are, at best, an interim approach to occupant protection. The optimum restraint system is a combination of airbags and lap/shoulder belts.

Now I will very quickly summarize our views on light truck safety.

We believe that vehicle definitions and classifications for the purpose of Federal safety standards just have not kept pace with the changes in the kinds of vehicles on our roads.

Back in the 1960's, NHTSA defined a number of vehicle classes, among which were light trucks, less than 10,000 pounds and designed for carrying cargo, and multipurpose passenger vehicles, these were vehicles either built on a truck chassis or having special features for off-road use.

At that time, it would have been difficult to apply all of the standards for passenger cars to these vehicles. So light trucks and multipurpose vehicles are exempt from some of the requirements.

NHTSA's intent was to only exempt them from immediate compliance and later to expand the list of standards they would be required to meet. But, as you have already heard, light trucks and multipurpose vehicles still are exempt from requirements for head restraints, side door strength, roof crush resistance, center-mounted brake lights, and, very importantly, automatic occupant protection.

Most of these exemptions are inappropriate now because the vehicles themselves and their use patterns have changed so much since the 1960's that the definitions and classifications used by NHTSA are out of date. Light trucks are smaller and less protective than they used to be. They are also being used in most cases just like passenger cars.

Many of today's so-called multipurpose vehicles are actually minivans, designed to compete with station wagons.

The Chairman. I'm going to ask you to wind up your testimony, if you could, Mr. O'Neill.

Mr. O'Neill. I think it is time for some changes. Multipurpose vehicles built on passenger car chassis should immediately be reclassified as passenger cars because they don't even meet the 1960's definition of multipurpose.

In addition, there should be a timetable set for all passenger vehicles to meet the passenger car safety standards or appropriate equivalents regardless of the technical definitions.

Thank you.

[The statement follows:]

### STATEMENT OF BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

The Insurance Institute for Highway Safety is a nonprofit research and communications organization that identifies and develops ways to reduce motor vehicle crashes and their losses. We are supported by the nation's property and casualty insurers. At this committee's request, I am submitting for the record information from the Institute about truck safety, particularly the hazards of driving long hours; front-seat automatic occupant protection; rear-seat safety belts; and the need to reclassify some multipurpose vehicles that are essentially passenger cars.

#### TRUCK DRIVERS AND HOURS IN SERVICE

Bureau of Motor Carrier Safety (BMCS) regulations require that truck drivers operate not more than 10 hours following 8 hours off duty nor more than 60 hours in any 7 consecutive days. Drivers are required to maintain written logs of their driving hours and may be prosecuted for failure to do so. The purpose of these log-keeping and hours-in-service regulations is to reduce truck crashes caused by fatigue.

But the requirements aren't working. Drivers often refer to their logs as "comic books", and double bookkeeping is widespread. The percentage of BMCS truck inspections with log-keeping and hours-in-service violations serious enough to put the driver out of service nearly *doubled* between 1983 and 1984. BMCS found 766 hours-in-service violations, 3,231 incidences of no logs or incorrect logs, plus 560 related violations during 18,966 inspections in 1984.[1] Millions of interstate trucks travel on U.S. roads, so the potential for hours-in-service violations is in the hundreds of thousands.

State inspections supply further evidence of abuse. In Oregon, 8,900 inspections in 1984 produced 1,700 log-book violations.[2] Among 15,000 truckers inspected so far in 1986 at various locations in Tennessee, up to a third haven't had log books or their books were incorrect.

Associated with these log-keeping and hours-in-service violations are too many serious truck crashes. A 1985 study conducted for the American Automobile Association concluded that "fatigue is the probable or primary cause of 41 percent of heavy truck accidents."[3] (The study estimated that, on any given day, one out of three interstate truck drivers is exceeding BMCS's 10-hour-per-day standard.) Accident investigations by the National Transportation Safety Board also show fatigue to be a serious problem. One investigation involved a driver who'd had 3½ hours sleep in the 27½ hours immediately preceding a crash. Another involved a driver with only 2 hours rest in the 17 hours before a crash.[4]

This problem may be worsening. From 1978 through 1984, the number of authorized motor carriers increased 80 percent. There was a concurrent decline in the overall amount of freight being hauled.[5] Competitive pressures under these circumstances are likely to push many drivers to ignore hours-in-service requirements—too often with fatal consequences to themselves and others on the road.

To address this problem, the Insurance Institute for Highway Safety has petitioned BMCS to require automatic on-board devices such as tachographs or on-board computers that record when trucks are driven and thus monitor driving hours. These relatively inexpensive devices can substantially reduce the chance of falsified, erroneous, and inaccurate records as well as ease the burden of recordkeeping. They're useful in monitoring speed. And they can provide valuable information after a crash.

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[1] Bureau of Motor Carrier Safety. BMCS Annual Roadside Inspection 1983 and 1984. U.S. Department of Transportation, Federal Highway Administration, 1985.

[2] Oregon Public Utility Commission. 1984 Truck Inspections and Truck Accidents, Statistics and Summary. Salem, Oregon, 1985.

[3] Transportation Research and Marketing. A Report on the Determination and Evaluation of the Role of Fatigue in Heavy Truck Accidents. Prepared for American Automobile Association Foundation for Traffic Safety, in cooperation with the Commercial Vehicle Safety Alliance, 1985.

[4] National Transportation Safety Board. Highway Accident Report: Fatigue-Related Commercial Vehicle Accidents. NTSB/HAR-85/04. Washington, DC, 1985.

[5] Glaskowsky, Nicholas A. Effects of Deregulation on Motor Carriers Eno Foundation for Transportation, Inc., 1986.

BMCS recognized the benefits of on-board recorders when it granted an exemption form log-keeping requirements to Frito-Lay, Inc., which plans to have 700 computers in use in its national truck fleet by the end of this year. On-board recorders also have been required and used with success in Europe for about 10 years. They've been used by many hazardous materials carriers in this country for as long as 20 years. These devices should be on many more big truck rigs in the United States. They will not eliminate crashes caused by driver fatigue, but they will reduce the magnitude of the problem and help ensure compliance with existing truck safety regulations.

## AIR BAGS AND AUTOMATIC SAFETY BELTS

In response to a petition from the Ford Motor Company, the National Highway Traffic Safety Administration (NHTSA) is proposing to extend the deadline by which all cars will be required to have automatic protection for drivers and right front-seat passengers. This amendment would mean that cars with driver-side air bags and dynamically tested manual lap/shoulder belts for right front-seat passengers will comply with FMVSS 208 for four years beyond September 1, 1989. That is, cars with driver-side air bags will *not* have to be equipped with automatic protection in the right front-seat passenger position for an extra four years. But during the same period, cars with automatic safety belts for drivers will have to have automatic protection for right front-seat passengers, too. In exchange for this amendment, Ford has promised to equip a large number of cars with driver-side air bags—a breakthrough because many more air bag-equipped cars will be on the market sooner, and in less expensive cars, than would have been likely without the amendment.

It might appear that the proposed amendment weakens FMVSS 208. But it really doesn't because its practical effect is to make it much easier for automakers to choose air bags instead of automatic safety belts to comply wtih the standard. Without the amendment, air bags are likely to be installed only in relatively small numbers of expensive cars. With the amendment, automakers are much more likely to install air bags in large numbers of popular-priced cars, too. Now that Ford has promised to do this, other manufacturers are likely to follow suit. The net result will be many more air bag-equipped cars.

Some people are claiming the proposed amendment will slow down the phasein of automatic restraints too much and that full front-seat air bags could be installed in 1991 models, at the latest. This would be a welcome scenario, if it would work, but it won't. We at the Institute have for months been in contact with major suppliers of air bag components across the country, and they confirm that the capacity isn't enough at present to provide large numbers of air bags, especially those for the passenger side, to meet a 1991 deadline. These suppliers have an economic interest in getting as many air bags as possible into cars as fast as possible. Yet they tell us air bags cannot be supplied in large numbers as quickly as manufacturers would need them to comply with FMVSS 208, even with a one-year extension. Talley Industries, for example, has 20 years experience in this area and has told Secretary of Transportation Dole it "strongly supports Ford's petition."[6]

An additional complication is that automatic restraints aren't modular components that can simply be tacked on a wide range of car models. Each individual model with an air bag system requires a separate engineering development and crash testing program. It wouldn't be responsible to pace the phase-in of air bags ahead of these constraints. This is not to say automakers should be given all the time in the world to equip cars with full front-seat air bags, but the four-year extension is reasonable in view of the constraints.

Between now and September 1, 1989, though, most new cars will be equipped with automatic safety belts to meet FMVSS 208. The key issue here is use rates—will the belts manufacturers are choosing increase the number of people who are buckled up, or will use rates be only marginally higher than with manual belts? As early as 1981, a General Motors spokesman told the U.S. Department of Transportation that "some designs of automatic belts are better than others." [7] At the same hearing,

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[6] William H. Mallender, Chairman of the Board, Talley Industries, to Honorable Elizabeth H. Dole, Secretary of Transportation, June 26, 1986.

[7] National Highway Traffic Safety Administration. Public Hearing Concerning the Automatic Restraint Requirements of Safety Standard No. 208, Occupant Crash Protection, Vol. 1. U.S. Department of Transportation, 1981.

Ford said automatic belts that can be detached easily "are simply another form" of manual belts. Chrysler added that many of the belts to be introduced in compliance with FMVSS 208 are automatic only "under the narrow definition" and "will be actively annoying to the people who use them." We agree because, unfortunately, some automatic belts being used in 1987 cars are easily detachable; some are uncomfortable when they're fastened; and some are difficult to re-attach. These kinds of belts are extremely unlikely to produce high use rates—a disappointing prospect, because increasing use rates is the *sole* purpose of automatic belts.

On the other hand, automatic belts that are easy to use and don't get in the way should produce much higher use rates. The Toyota Cressida's belt system, in use since 1983, consists of a nondetachable, motorized shoulder belt with a separate manual lap belt. Insurance injury claims for Cressidas are much less frequent than for Nissan Maximas, which are very similar cars but are equipped with standard manual belts. The two cars have nearly the same collision coverage losses. These results strongly suggest that the better injury results for the Cressida are due to the high levels of belt use (more than 90 percent) produced by the automatic system.

The belt system Ford is going to use on 1987 Escorts is almost identical to the Cressida's. Unless other manufacturers also install the kinds of automatic belts that produce high use rates, we can't expect such belts to save many lives. And, no matter what belt design is chosen, it's important to remember that automatic safety belts are, at best, an interim approach to occupant protection. The optimum restraint system is a combination of air bags and lap/shoulder belts.

### REAR-SEAT BELTS

A recent review by the National Transportation Safety Board (NTSB) of safety belt performance in 26 frontal crashes has left many people wondering whether passengers in the back seat would be better off without any safety belt at all. One of the study's conclusions is noncontroversial—we've known for years that lap/shoulder belts afford more protection than lap belts alone. But another conclusion has caused a lot of controversy, because NTSB said it couldn't "state with confidence whether passenger vehicle occupants should be advised to use rear-seat lap belts or not." [8]

These highly publicized conclusions have given a wrong impression of the protection afforded by safety belts. NTSB reviewed only a small number of crashes in which lap belts may have exacerbated injuries. These crashes were *not* representative; they included only frontal crashes, not the side impact and rollover crashes in which lap belts are particularly effective. The National Highway Traffic Safety Administration has strongly disputed some of NTSB's findings and summarized five earlier studies indicating that safety belts, including lap belts, are very effective in reducing the risk of crash death or serious injury.

A new study of 37,611 crashes in North Carolina demonstrates that rearseat lap belts reduce serious injuries by about 40 percent.[9] The author of this study also found problems with NTSB's report, the most serious of which was that "some additional selection process favored admission of the most severe injury cases expected at that damage level, and tended to under-select the instances of less severe injury that occur at that same damage level . . . The NTSB case are, in fact, so severe that one could not expect either lap or lap/shoulder belts to show up very well—as indeed they did not. Existence of such cases does not, however, rule out the belts' observed net effectiveness demonstrated when the full range of crashes is considered." For these and other reasons, virtually all researches concerned with this issue *disagree* with NTSB about the effectiveness of lap belts.

Automakers have been required to provide the anchors for rear shoulder straps since 1972, and a number of import manufacturers including Audi, BMW, Mercedes-Benz, Peugeot, Saab, and Volvo have for some time been equipping their cars with lap/shoulder belts in the rear seat. Now domestic automakers are announcing plans to follow suit. General Motors says it will make rear lap/shoulder belts standard equipment in some 1987 and all 1988 models. Ford will install these restraints as standard equipment over the next few years and is investigating whether it can make accessory kits available for current models. At American Motors, officials say they will make rear shoulder belts available as new models are phased in, and a Chrysler spokesman says the company expects to make a decision shortly. These plans are welcome, but in the meantime rearseat passengers should use their available lap belts.

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[8] National Transportation Safety Board. Safety Study: Performance of Lap Belts in 17 Frontal Crashes. NTSB/SS-86/03. Washington, DC, 1986.

[9] Campbell, B.J. The Effectiveness of Rear-Seat Lap-Belts in Crash Injury Reduction. University of North Carolina Highway Safety Research Center. Chapel Hill, North Carolina, 1986.

### LIGHT TRUCKS AND MULTIPURPOSE VEHICLES

Vehicles definitions and classifications for the purpose of federal safety standards aren't keeping pace with changes in the kinds of vehicles on our roads. Back in the 1960s, NHTSA defined a number of vehicle classes, among which were light trucks (less than 10,000 pounds and designed for carrying cargo) and multipurpose vehicles (either built on a truck chassis or having special features for off-road use). It would have been difficult to apply all of the standards for passenger cars to these vehicles, so light trucks and multipurpose vehicles were exempt from some requirements.

NHTSA's intent, at least in the case of multipurpose vehicles, was to exempt them "from immediate compliance"[10] and later to expand the list of standards they would be required to meet. But light trucks and multipurpose vehicles *still* are exempt from requirements for head restraints, side door strength, roof crush resistance, center-mounted brake lights, and automatic occupant protection.

Many of these exemptions are inappropriate because the vehicles themselves and their use patterns have changed so much since the 1960s that the definitions and classifications used by NHTSA for regulatory purposes are out of date. Light trucks are smaller and less protective of their occupants than they used to be. They're being used in most cases just like passenger cars. Many of today's so-called multipurpose vehicles are actually minivans designed to compete with station wagons. Chrysler, for example, advertises its minivan as "the station wagon of the future,"[11] "the best family wagon in America," and tells drivers of Dodge Caravans and Plymouth Voyagers, you'll "feel more like you're driving a car." These vehicles aren't being used for multiple purposes any more than station wagons are. They aren't being used off-road. They aren't trucks. Some minivans aren't built on truck chassis at all—they're built on car chassis—so it's difficult to understand how they could be classified as multipurpose.

Auto manufacturers apparently have a great deal of freedom in deciding how their vehicles will be classified under NHTSA definitions. The result is that some vehicles on the road are essentially passenger cars, but they don't have to meet safety standards for cars because manufacturers don't classify them as cars and NHTSA uses out-of-date definitions for regulatory purposes.

It's time for some thoughtful changes. Multipurpose vehicles built on passenger car chassis should immediately be reclassified as passenger cars because they don't meet even the 1960's definition of multipurpose. In addition, the classifications of all small vehicles predominantly used on the highways should be re-examined in the context of today's and tomorrow's vehicles. There should be a reasonable timetable for all vehicles to meet passenger car safety standards or appropriate equivalents. This way, all occupants will be assured of equivalent levels of minimum safety protection regardless of the technical definitions of the vehicles in which they're traveling.

The **CHAIRMAN**. Thank you, sir.

Colonel Grumney.

Colonel **GRUMNEY**. Thank you.

Mr. Chairman, I am Lt. Col. Richard Grumney of the Ohio State Highway Patrol. I am here to tell you of our experience and support for airbags.

Our experience with airbag equipped highway patrol cars tells us that airbags, in conjunction with safety belts, are the best way to reduce deaths and injuries on our highways.

In 1983, we joined five other State law enforcement agencies in an evaluation of the effectiveness of airbags in preventing injuries to State troopers who are involved in traffic accidents while performing their public service duties.

The evaluation was conducted by the National Highway Traffic Safety Administration to see how airbags performed in what might be one of the most demanding environments, that is, traffic law enforcement patrolling.

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[10] Federal Register 38:170(23804), 1973.

[11] "Chrysler's Minivan: From Inception to Expectations." Ward's Auto World, March 1983.

The Ohio State Highway Patrol retrofitted 75 vehicles with airbags. The cars were then assigned to several different geographic regions in order to expose them to a variety of work situations.

In order to gain trooper support for this test program, we arranged a test crash of an airbag equipped patrol car at our transportation research center in Bellefontaine, OH. I will show you that rather impressive crash test in just a few minutes.

This videotape and the detailed accounts of our deployment have made our troopers avid supporters of airbags and safety belts. This support has carried over into the safety belt enforcement program and should help us make significant reductions in our State's traffic death toll as the State safety belt usage increases by the public.

In the 2 years of the NHTSA evaluation, our patrol cars travelled nearly 70 million miles. We experienced six airbag deployments during traffic crashes. Two of these accidents were particularly serious, and we firmly believe that our troopers' lives may have been saved by the airbags.

I have six photographs of these various crashes for your review later.

One of the most serious accidents occurred on January 22, 1985, near Marion, OH. A patrol sergeant and a trooper had just returned to their airbag equipped patrol car, which was stopped on the berm after a motorist contact. An oncoming vehicle lost control, went off the left side of the road, and struck the highway patrol car head-on. The airbag in the 1983 Plymouth deployed, preventing any contact with the steering wheel by the trooper, who escaped uninjured. The sergeant sitting in the right front was wearing his lap belt and shoulder harness and was also uninjured.

You can judge the effectiveness of the airbag and belts as well as the seriousness of the collision from these colored slides.

Could we just lower the lights a little.

[Slides shown]

Colonel **Grumney**. What we have here is a crash scene of the highway patrol car and a red Grenada that is behind the patrol car. The conditions on the road were partly snow-covered and icy. You can see the damage to the patrol car mostly in this one.

The **Chairman**. Colonel, would you keep that slide on until we get all the lights out. It is very, very difficult to see.

Colonel **Grumney**. This is the crash scene, with the patrol car, and the vehicle.

The **Chairman**. We need to turn out one more light, please.

Colonel **Grumney**. As you can see, there is extensive damage to the patrol car.

The next slide shows a little bit different angle, but you can see where the patrol car was pushed back actually 30 feet upon impact with the other car.

The third slide shows the damage to the Ford Grenada, which hit the patrol car.

The fourth slide shows the damage to the patrol car itself.

This is another shot of the patrol car.

The last slide shows inside the vehicle and the airbag that was deployed.

Those are all of the slides.

The CHAIRMAN. Thank you.

Colonel GRUMNEY. Our troopers fully support airbags, just as they do Ohio's mandatory use law, which became effective on July 4, 1986.

Since that time, our officers have made approximately 35,000 arrests for safety belt violations. We are convinced that our new law, with some strong support for airbags, will help Ohio add to the 26 percent decrease in rural fatal accidents that we have experienced since 1979.

Again, we strongly believe in airbags, and we have spent a great deal of time and money helping to promote the use of airbags by police officers.

In August of this year, we hosted an airbag workshop for NHTSA. The purpose of this workshop was to promote airbags for use in police vehicles.

Our workshop was attended by vehicle fleet administrators from 51 State, county, and local law enforcement agencies.

We would like to install airbags in all of our highway patrol cars. We will attempt to obtain these funds in our next budget. But the money will only be available if the cost is reasonable.

It is our understanding that technology needed to reduce the cost of airbags has not yet been completely developed. That technology, however, may soon be available with the necessary support from the Federal Government.

We may soon see the day when airbags are affordable for everyone, resulting in the saving of hundreds, if not thousands, of lives each year.

At this time, I have a 3½ minute videotape which I would like to show, of an actual crash test of a highway patrol car into a solid barrier at a crash speed of 35 miles an hour. I think it is quite impressive. It shows the airbag deployment and also the safety belt restraints and the effectiveness of them.

[Film shown.]

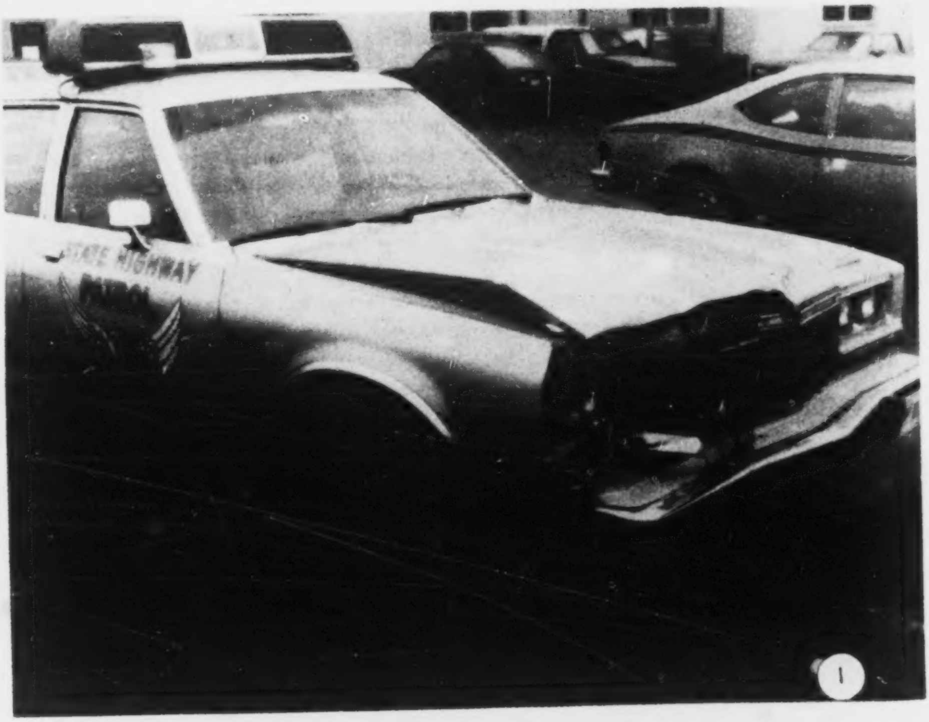
Colonel GRUMNEY. The first portion of this just gives the specifications on the test itself. The crash test, which you will see first, is at the actual speed, 35 miles an hour. You will see a deployment over the shoulder view, in slow motion. You can see the violent reaction within the vehicle.

The second view in slow motion will be from the right side.

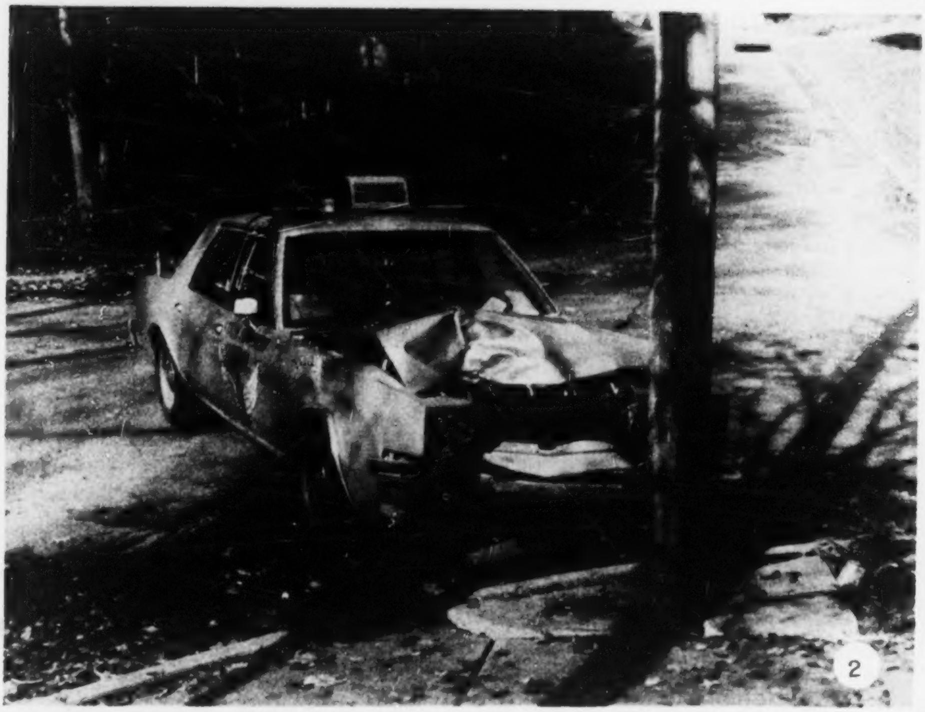
The last scene will be from outside the vehicle, looking at the deployment, in slow motion. As I said, this is only at 35 miles per hour, and the crash was very violent. If the dummy were not belted in and without the airbag to prevent any injuries by the steering wheel, the driver would have been severely injured.

Thank you, Mr. Chairman.

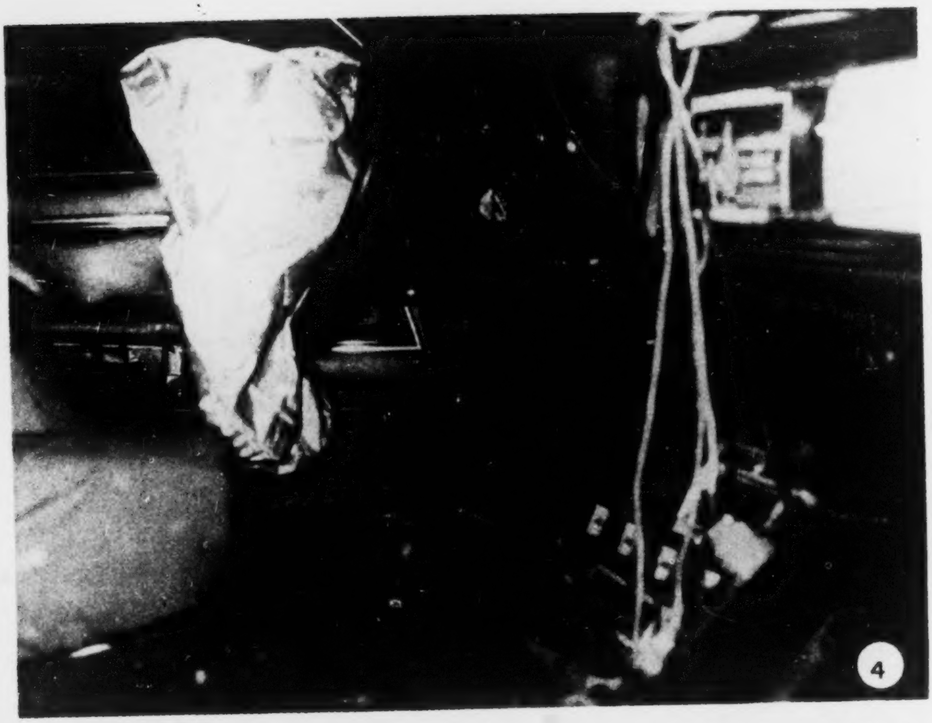
[The photographs referred to follow:]



*10-10-84—Ashland, Ohio.* A 120 pound buck deer ran in front of a 1983 Plymouth Gran Fury patrol car which was traveling at 50 mph. The hood, grille, and right front fender of the patrol car sustained over $1,000 damage. The driver was wearing the lap belt and shoulder harness and was not injured. Photograph #1.

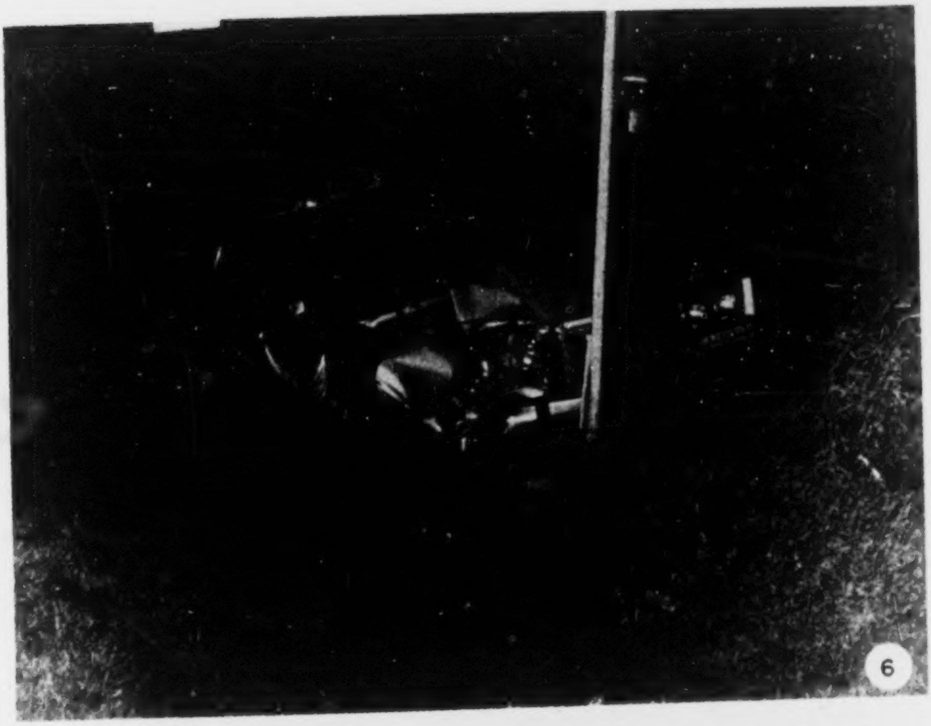


*10-24-84—Cuyahoga Falls, Ohio.* The Trooper was enroute to an accident scene at a high speed with the cruiser's emergency signals in operation. Another vehicle pulled into the path of the 1983 Plymouth Gran Fury patrol car. The Trooper braked and steered right to avoid the encroaching vehicle. The patrol car went off the right side of the road and struck a power pole head-on at approximately 20 mph. The pole penetrated the front of the cruiser to a depth of 23 inches and the damage to the Plymouth was $3,700. The fully belted Trooper received only minor bruises and lacerations. Photograph #2.



*12-12-84—Gallipolis, Ohio.* The Trooper was enroute to an accident scene with the cruiser's emergency signals in operation. He attempted to pass another vehicle on the approach to an intersection and sideswiped the other car as it started a left turn. The 1983 Plymouth Gran Fury patrol car went off the left side of the roadway and struck a tree. The entire left side of the patrol vehicle was heavily damaged. The fully belted officer received a bruised spleen and ribs when he was struck by the driver's door arm rest. Photographs #3 and #4.

*8-14-85—Circleville, Ohio.* A Trooper was patrolling a 4-lane highway and failed to observe a pickup truck to his front that was slowing to make a left turn. The entire front of the 1983 Plymouth patrol car was heavily damaged. The belted Trooper, who was also wearing a bullet proof vest, experienced a short-lived soreness to the torso and legs. Photograph #5.



*10-24-85—Lima, Ohio.* The Trooper was in pursuit of a traffic violator. He lost control while attempting to turn right at a "T" intersection and struck a utility pole on the left side of the highway. The right front of the 1983 Plymouth Gran Fury was heavily damaged. The officer was fully belted and sustained only a minor injury when his right hand struck the dash mounted radar unit. Photograph #6.

The CHAIRMAN. Is that it?

Colonel GRUMNEY. That is it, yes.

The CHAIRMAN. Thank you very much.

I have seen a lot of pictures of crash tests before, but I have never seen them to music.

Gentlemen, thank you very much.

I take it that there is no doubt in any of your minds as to the desirability of airbags as a safety device.

Mr. O'NEILL. No doubt whatsoever, Senator.

The CHAIRMAN. None at all. No questions about their safety? No hedging about how seat belts are just as good?

Airbags are clearly desirable to install in all cars, is that correct?

Mr. DITLOW. No question.

Mr. O'NEILL. No question about that, sir.

Colonel GRUMNEY. Our position is that airbags are definitely a safety factor, but it has to be in conjunction with the safety belts.

The CHAIRMAN. But that is not the question.

The question is is there any doubt in your mind that airbags are clearly desirable?

Colonel GRUMNEY. Oh, no doubt.

The CHAIRMAN. As far as safety equipment is concerned?

Colonel GRUMNEY. No doubt at all.

The **CHAIRMAN**. And is there any question in your mind as to whether airbags or other forms of passive restraints are preferable?

Do you believe that airbags are one of several possibilities as passive restraints that are equally desirable? Or, do you believe that, compared to other passive restraints, airbags are desirable?

Mr. **O'NEILL**. Compared to other passive restraints, Senator, I believe that the airbags are far superior. Airbags offer something for all front seat occupants. They offer additional protection to those occupants who will wear their belts, and we hope that more occupants will buckle up.

For those occupants who will not wear their belts or who would defeat automatic belt systems, they will still receive considerable protection in frontal crashes from the airbag.

The **CHAIRMAN**. Is there any disagreement with that statement?

Colonel **GRUMNEY**. No.

Mr. **DITLOW**. They are demonstrably superior.

The **CHAIRMAN**. Demonstrably superior.

Can other forms of passive restraints be disconnected?

Mr. **DITLOW**. Yes, they certainly can.

Mr. **O'NEILL**. Yes.

Mr. **DITLOW**. The automatic seat belts can be disconnected, depending upon the type that are installed.

Mr. **O'NEILL**. Senator, some of the automatic belt systems can be very easily disconnected. Others would require removal from the car.

The **CHAIRMAN**. Do you think that, well, let's suppose that you were an auto executive and you just couldn't stand the idea of airbags; I mean, the passion of your life was opposition to airbags; and there was a rule that provided for passive restraints, either airbags or other forms of passive restraints. Would it be possible for you to develop a passive restraint system which would enrage the public and which would be easily disconnected, and which would be used or which you would intend to be really a circumvention of the present passive restraint law?

Mr. **O'NEILL**. The manufacturers themselves in testimony said that there could be such belt systems.

The **CHAIRMAN**. What would an auto manufacturer who wanted to thwart the whole thing do?

What kind of scheme would such an auto manufacturer come up with who just wanted to sabotage any meaningful passive restraint rule?

Mr. **DITLOW**. I think a manufacturer would attempt to generate a backlash by having a very cumbersome automatic belt system that was difficult to use, yet very easy to disconnect—quite similar to what General Motors is doing.

I mean, if you look at the track record, the ignition interlock defeated a proposal once before on the basis of a backlash, and if it worked once, it might very well work again.

The **CHAIRMAN**. Does the technology exist for airbags on the passenger side? Does Ford have a reasonable point that it needs additional time to develop airbags for the passenger side?

Are the problems different for the passenger side that don't exist for the driver's side?

Mr. O'Neill. There are different engineering problems. The technology exists. But I believe that, in order to see them in large numbers, we need to give the manufacturers more time for engineering and development testing because some of the newer passenger side airbag systems that are currently being developed will be superior to some of the other passenger side airbag systems.

The Chairman. Do you not agree with that, Mr. Ditlow?

Mr. Ditlow. We agree that there is some more difficulty in developing the passenger side bag. But, if you look at the systems that were in the General Motors cars in the 1970s, they did, in fact, work

Where we fundamentally split paths is that you don't go from zero to 100 percent on passenger bags in one year.

So, what's wrong with a phase-in of passenger bags, just like driver bags?

The Chairman. Do any of you have a view as to whether the mandatory seat belt laws that have been passed by the States are adequate and whether they meet the intent of the Secretary?

Mr. O'Neill. I think it's clear that they don't, many of them do not meet the literal requirements specified in the rule. Some of the laws, unfortunately only a few of them, are producing very significant uses in belt usage. Some of the other laws are producing only minimal increases in belt usage.

The Chairman. Colonel, you have indicated that in Ohio, there is a great increase in usage.

Is that right?

Colonel Grumney. Yes, Mr. Chairman. The usage rate was around 18 percent, and upon enactment in July, we are currently at about 48 or 49 percent. I think with additional education and public relations, we will increase that some more.

The Chairman. Is Ohio unusual, Mr. O'Neill?

Mr. O'Neill. I would say that a large number of States with belt laws now have belt use levels in the 40 percent range; some have use levels that are only in the 20 percent range.

Texas, Connecticut, and Hawaii have laws that are producing relatively high belt use levels.

The Chairman. How about vans and trucks? You have all testified on vans and trucks. There appears to be considerable doubt in Ms. Steed's mind as to whether there is any particular need for standards relating to roofs or bars on the sides of the trucks, or head restraints and so on. Do any of you have any opinions as to that?

Do you share her same doubt?

Colonel Grumney. We in Ohio do not have any statistics that would support that pickup trucks, vans, that the seriousness of those collisions are any worse than for motor vehicles at this time?

The Chairman. You what—pardon me?

Colonel Grumney. We do not have any statistics that would support a variation at this time.

The Chairman. Do you have any judgment based on your experience, Colonel, as opposed to statistics?

Colonel Grumney. Well, Ms. Steed mentioned that, as a class, pickup trucks are not any less serious.

I think if you look at accidents involving small pickup trucks and small vans and if they are studied closely, maybe there could be a problem. But that is only speculation at this point.

Mr. O'NEILL. Senator, I believe that there should be the same standards, or equivalent standards, that apply to passenger cars also applied to light trucks and so-called multi-purpose vehicles.

Administrator Steed said that perhaps there was not a need for a roof crush resistance standard because most, or many, of the current light trucks are already meeting such standards. NHTSA officials know that. NHTSA officials may know which particular light trucks are meeting that standard.

But the consumer, the average consumer, has no way of knowing which ones do and which ones don't. I do not accept the argument that there is significant engineering effort involved in extending standards that are already written for one class of vehicle to another class especially when they are being used pretty much the same way, as passenger cars.

The CHAIRMAN. Mr. Ditlow.

Mr. DITLOW. There is no question in my mind but that they should be subject to the same standards.

Another example is consumers have no idea which of the light trucks have better bumpers, and none of them has to meet the damageability standards that the department has. When they are used in urban areas, they are going to be involved in collisions. They ought to have the high-mounted brake lights, they ought to have all of the protections that station wagons and cars have.

The CHAIRMAN. Ms. Steed said they already have higher lights.

Mr. DITLOW. Well, I don't think Ms. Steed has seen many of the vans, like the Toyota vans and the compact pickups. Those lights are not higher than the ones in cars.

The CHAIRMAN. Mr. O'Neill, would you explain to me and to anyone else who is interested what a tachograph is and what it does, and what is important about it.

Mr. O'NEILL. A tachograph is a device that can be retrofitted into a large truck, and it records on a chart, which is inside and can be locked in a tamper proof way, the times the vehicle is in operation, the speeds at which it traveled, so that there is, in effect, almost a foolproof way to record whether or not the individual drivers have been driving beyond the current 10 hour limit.

These have been required on all large trucks in Europe for some 10 years now, and it has made a big difference in truck safety in Europe. We need them in the United States.

The CHAIRMAN. Let me ask anyone who cares to answer a very broad and very general question.

We have been involved now for a number of years in highway safety legislation in this committee. We have enacted into law several bills that were aimed at trying to increase highway safety.

Congress goes back into session next month. Obviously highway safety is of great concern to a number of Senators.

What would your agenda be? What do you think we should be doing? What are the most useful areas, fruitful areas, for Congress to pursue in highway safety, in your opinion—if you have an opinion?

Maybe it is unfair to ask you so quickly for a response to that. Maybe it will require a little more thought.

But, if you have any thoughts at this point, what do you think we should be doing?

Mr. O'Neill. Well, first, I think that the authority to improve the situation on our highways already exists within NHTSA. But, clearly, in many areas we are not moving forward with rules and standards that would improve the situation.

I think we are being very derelict in this country with respect to large truck safety. We are way behind the Europeans.

There are European regulations that are very effective on items such as tachographs, brakes, and other aspects of large truck safety that are just being ignored in this country.

Clearly, we are making some progress, and we are about to make big progress with passenger car safety through the advent of automatic restraints, and especially airbags.

We have heard today that light trucks and multi-purpose passenger vehicles are being used just the same way as passenger cars. We should be planning to extend those requirements, the automatic protection requirements, to those vehicles also.

Mr. Ditlow. Senator Danforth, the first part would be keeping the pressure up to get the airbags on the road as rapidly as possible. I certainly agree with Brian that large truck safety has to be examined as we get more large trucks on the road.

The compact van and truck, and also small cars—do we have safety standards that are good enough for the smaller vehicles that are being introduced on the road?

Then, finally, as a consumer organization that deals with the safety of the vehicles after they are produced, there are increasingly large numbers of defects in automobiles that are going unescaped that cause death and injury, as we see, with sudden acceleration of automobiles. Oversight of the Department of Transportation needs to be done in the defect area, particularly since the courts have ruled against citizen involvement in defect investigation.

Colonel Grumney. Senator Danforth, one thing that we feel Congress could do to help highway safety would be to stop giving the perception that the 55 mile an hour speed limit is going to be repealed.

The motoring public, of course, is picking this up, and speeds are up. The motoring public is looking at the fact that it is going to be repealed. People are driving faster and feel that it is going to be changed anyway. This is causing I think all States a major problem. Speed is a major contributor to fatal accidents, to the seriousness of accidents.

I think that is one single thing that Congress could do, to come out and say that it is not going to be repealed, and let law enforcement do its job.

The Chairman. I think it is more likely than not that the opposite will happen.

Mr. O'Neill. Senator, let me just add one thing on that.

I think the 55 mile an hour speed limit is important for safety. One thing perhaps the Congress could look at is the issue of radar detectors. These devices will not go away, even if the 55 mile an hour speed limit is repealed, and they serve no purpose other than to aid people in breaking the law.

The CHAIRMAN. Is there anything else for the good of the cause? [No response.]

The CHAIRMAN. Thank you all very much.

Next we have a panel consisting of Helen Petrauskas, vice president of the Ford Motor Co.; Milford Bennett, assistant director of automotive safety engineering for General Motors; and Christopher Kennedy, director of federal government affairs, Chrysler Corp.

Ms. Petrauskas, who is right—Clarence Ditlow or Brian O'Neill.

Ms. PETRAUSKAS. Brian O'Neill.

The CHAIRMAN. Do you have anything else to say?

## STATEMENTS OF HELEN O. PETRAUSKAS, VICE PRESIDENT, ENVIRONMENTAL AND SAFETY ENGINEERING, FORD MOTOR COMPANY; MILFORD J. BENNETT, ASSISTANT DIRECTOR, AUTOMOTIVE SAFETY ENGINEERING, GENERAL MOTORS, INC.; AND CHRISTOPHER KENNEDY, DIRECTOR, FEDERAL GOVERNMENT AFFAIRS, CHRYSLER CORP.

Ms. PETRAUSKAS. Mr. Chairman, we appreciate the opportunity to provide an update on safety issues to the committee and to the committee staff.

We have filed written testimony with the committee that responded to the questions, and, if I may, I will just briefly summarize the key points.

Light truck safety is a priority at Ford, and we are working very hard to try to define additional areas of opportunity.

One important opportunity in our judgment is accident avoidance with respect to trucks, and that has led us to introduce in 1987 anti-lock braking systems as standard equipment on all of our F Series pickups, our Broncos, and our Bronco IIs. We believe that this equipment will improve braking capability by helping the operator of the vehicle better maintain stability of the vehicle over the full range of loading conditions that a truck may experience. And for this reason, we think anti-lock brakes will make an important safety contribution.

With regard to rear safety belts, shoulder and lap belts, the growing public acceptance of belt use laws and the increase in belt usage makes us believe that there will be the same acceptance of shoulder belts in the rear seat as we are seeing in the front seat. In fact, we believe we are going to be seeing some consumer demand for shoulder belts in the rear.

We presently have one car line which has the shoulder belts in the rear as standard equipment, and we certainly intend to expand that during the next several years.

Drunk driving was another one of the subjects that was mentioned in the committee's letter. That is of concern to us, particularly where it involves young drivers. It was that concern that has led us to expand sponsorship of a program called, Scared Stiff.

That program, which was initiated by a group called Safety and Survival, Incorporated—a not for profit group that was founded by a group of retired law enforcement officers—has a program to train police officers, across the country to put on anti-drunk driving presentations to high school students.

The unique thing about this program is the presentations are built around an accident that happened near the school or in that particular community.

One of the things they are finding is when you posture the tragic results of drunk driving and you do so in a way that is very meaningful to young people, as opposed to quoting national statistics for them, you can be very effective and we are pleased to be able to contribute to it.

With regard to passive restraints, parked outside of the building, on the corner of Delaware and C Streets, we have a 1987 Escort, which is equipped with a motorized passive belt. If any of the committee or audience would like to stop by, we would like to demonstrate the way that system works.

The approach we have taken, the system we have selected, is one that is more costly to the company. And yet, we believe that it is convenient for our customers, it is a comfortable system, and, therefore, it will be a system that will be used. Therefore, we indeed expect to obtain the safety benefit from that system that we wanted to obtain.

Parked right behind that Escort is a Ford Tempo that is equipped with the driver-side airbag.

Behind that is a Merkur XR-4ti, which is our car line that has rear shoulder belts as standard equipment.

With respect to the driver airbag system, we now have accumulated 140 million miles of experience on that system.

We now have about 11,000 cars in fleet service. There have been 84 crashes that were serious enough to cause the airbag to deploy.

What is very encouraging to us is that in every instance where the bag should have deployed it did. And we have had no instances of inadvertent deployment. The injury record is very good. We have had only four minor injuries. We had one crash that was a fatality. It was a very high speed crash of a car into a logging truck, and it was judged by safety experts to not have been a survivable accident.

As you may recall, the system we offer today had its genesis in a test program we did when we sold 5,000 of these cars to a government fleet. We had good experience and expanded sales to other fleets. We had good experience there and thus went on to offer it to retail customers.

I am happy to say that the last time I checked the order bank, we had about 5,000 retail orders just since the start of the 1987 model year.

Airbag technology is technology which we wish to employ much more broadly in the future. As has been discussed earlier today under the passive restraint rule, until September of 1989, we may offer a driver airbag but couple it with a passenger side-active belt. We can no longer do that after that date.

Based on a petition that we filed, NHTSA has proposed to expand for a period of time our ability to offer that kind of system. Without a change in the rule we face a very difficult choice, and that is if we select airbags as our primary technology, then we have to take the gamble that in less than 3 years from today, we will, in fact, be in a position to offer passenger bags in high volume. If we lose on that gamble, obviously we cannot produce vehicles.

I will finish up very quickly.

If the rule is amended, we have made the commitment to install supplementary driver airbag systems in the majority of our North American-designed cars, including our highest volume family-sized car, beginning in the fall of 1989.

We believe that if the proposal is adopted, it will serve the needs of motor vehicle safety. First, it will engender in our judgment large volumes of driver-side airbags and provide the opportunity for an orderly introduction of passenger-side airbags. The fact that we will have the higher volume, we believe, will dramatically reduce the cost of airbags to us and, hence, the price of airbags to the public.

On the passenger side, it is our plan to make passenger-side supplementary airbags available beginning in the 1989 model year, assuming that the engineering and testing work and so on that are presently underway continue to be successful, and that, in fact, the supply base is in place.

In effect, we are started on a process that will try to replicate on the passenger side the evolutionary experience we have had on the driver's side.

I would like to underscore one thing, and that is that we believe our proposal does not weaken the passive restraint rule because, in effect, the proposal is self-effectuating. It makes no change to the rule unless a manufacturer in fact installs airbags in cars. Otherwise, the amendment is of no effect.

[The statement follows:]

## Statement of Helen O. Petrauskas, Vice President, Ford Motor Co.

Ford Motor Company's product safety philosophy requires that it design its products not only to meet or exceed all applicable laws and regulations, but also to advance the state-of-the-art wherever practicable. This philosophy helped put Ford in a position of leadership in such advanced safety devices as antilock brake systems and supplemental driver air bags. Even more important, it leads continually to less readily perceived, evolutionary design and performance improvements in both occupant protection and accident avoidance attributes.

The following are specific comments on the issues raised in the committee's letter of invitation.

### LIGHT TRUCK SAFETY

Most passenger car safety standards already apply to light trucks. In most of those instances where truck standards are different, it is because unique truck design characteristics, such as vehicle weight, vehicle height, and loading characteristics, call for differing standards.

In some areas, Ford's truck specifications already meet the car safety performance standards even though the regulations are different. For example, Ford light truck design requirements for windshield visibility and defrosting are common with passenger car requirements. In other cases, such as roof strength, the performance of all light trucks meets or exceeds the requirements of the comparable passenger car standard.

Ford supports the adaptation of passenger car safety standards to light trucks wherever they advance the cause of safety—improving the safety of trucks in practicable ways. We believe it is ill-advised, however, to assume that safety benefits will flow from extending passenger car requirements to light trucks across-the-board. The more responsible course, Ford believes is, to identify the greatest opportunities for injury reduction for each type of vehicle. Ford is working on its own to identify promising areas and cooperating with NHTSA in highlighting those areas where safety standards could stimulate appropriate countermeasures. NHTSA has announced that it plans to publish a major report next spring concerning the differences in light truck and car safety, highlighting the areas where new requirements make sense.

Looking at the safety record of light trucks, in vehicle-to-vehicle accidents, the fatality rate for trucks is similar to that of comparable passenger cars. In terms of overall statistics, trucks come out slightly better as a class of vehicles than cars. However, trucks come out worse in single vehicle accidents.

This means that accident avoidance technology can bring very substantial safety benefits. We believe that Ford's introduction of rear-wheel antilock braking systems as standard equipment on all 1987 F-Series pick-up, Bronco and Bronco II trucks should make an important safety contribution in this regard. This system improves braking capability and helps the driver maintain vehicle stability over the full range of cargo loading levels. We believe the market acceptance of this new technology will be high and we hope that it will prove to be an important safety countermeasure. This is an example of the matching of our technology and customer needs that will lead to improved safety in the future.

## REAR SEAT BELT DESIGN

Ford strongly supports NHTSA's position that the vast majority of rear occupants are much better off wearing lap belts in accidents than they would be if they were unbelted. Not only do rear safety belts keep rear passengers from being ejected, but they also help prevent the rear passenger from being hurled forward and hitting front seat occupants.

The recent National Traffic Safety Board study gives no evidence to the contrary. The data in this small sample focused only on instances where back seat occupants wearing belts were injured, including at least one case where the injuries appeared to be exacerbated by belts and seats that were not original equipment and apparently did not meet government standards. Worse yet, the study failed to address those accidents where the belted passenger was protected from serious injury. We believe that large and more representative samples of accident data on rear seat occupants show the majority of these occupants are protected importantly by wearing their belts. Accident studies conducted by NHTSA and recently by General Motors support this conclusion.

As to the use of shoulder harnesses in the rear seat outboard positions, Ford was concerned until recently that rear seat shoulder harnesses could result in lower levels of acceptance by rear seat occupants and therefore less belt usage. The passage of mandatory belt usage laws by 24 states and the District of Columbia in the short space of a couple of years—and increasing belt usage and emphasis on general auto safety issues nationwide—should provide a much more supportive environment for rear seat belt usage.

In this improved environment, Ford plans to expand the use of three-point safety belts in the rear outboard positions during the next few years. Although only limited data are available, Ford agrees that these combined systems may provide increased protection for rear seat occupants. Ford offers these systems today in the Merkur XR4Ti.

Although at present there is virtually no demand for installation of rear seat shoulder harnesses in existing vehicles, the improved seat belt use climate may also serve to increase this demand. Accordingly, Ford is investigating the feasibility of making available dealer-installed rear seat shoulder belt accessory kits for existing models.

## 21-YEAR-OLD DRINKING AGE

Ford believes that the all-too frequent tragedy of young life cut short by drunk driving provides a compelling reason for a 21-year-old minimum drinking age. Traffic accidents are by far the leading cause of death for young persons. And about one-third of the fatally-injured high-school-age drivers are found to have been drinking at the time of the crash. National statistics show that about, 4,000 people under the age of 20 are killed each year in alcohol-related accidents. The state of Michigan adopted a lower minimum drinking-age several years ago. After alcohol-related deaths in young people increased, the lower minimum age was promptly repealed.

Our concern about teenage drunk driving has led Ford to expand its sponsorship of a national traffic safety program called "Scared Stiff." "Scared Stiff," a hard-hitting, dramatic learning experience, was developed in 1979 by Safety & Survival, Inc., a non-profit organization founded by retired law-enforcement officers in Rockville, Maryland.

Using vivid descriptions of local accidents and highway carnage, officers visit high school assemblies—usually after a fatal accident in the community—to increase the awareness among students and others of the dangers of drunk driving and drug abuse. Since 1983, Ford has sponsored the group's presentations at Washington, D.C. area schools.

Under Ford's sponsorship, Safety & Survival, Inc., now will train 1,400 other officers nationwide over the next three years to present the program in high schools and estimates that about 1.5 million youngsters will view the presentation in the next two years. The record of these presentations is excellent; since 1979, about 350,000 teenagers and their parents have viewed the presentation—and Safety and Survival, Inc. reports that none of them is known to have been involved in a fatal, alcohol-related accident. The program has been certified by the National Association of State Directors of Law-Enforcement Training and is supported by the International Association of Chiefs of Police and the National Sheriffs Association.

## PASSIVE RESTRAINTS AND THE FORD PETITION

In 1984, NHTSA mandated a phase-in of passive restraints and Ford adopted a policy to provide passive safety belt systems for front outboard occupants that would maximize net safety effectiveness. We focused on designs that not only would meet the passive requirements but also—by their comfort and convenience—would strongly encourage belt usage and discourage disconnection. We also decided to follow design practices that would facilitate the installation of supplemental air bags on the assumption that technical issues would be resolved and market demand would grow for these systems.

Consistent with this policy, Ford selected a motorized two-point design to comply with the first-year passive restraint rule phase-in requirement. It is now in production as standard equipment on our best-selling car, the Ford Escort, and its sister subcompact entry, the Mercury Lynx.

Ford's new passive belt system works this way: when the ignition switch is off, the shoulder belts are positioned well forward of the seats, permitting easy entry and exit. When the door is shut and the ignition switch is turned on, the upper anchor points of the shoulder belts automatically glide along tracks adjacent to the door openings and two seconds later the shoulder belts are postioned easily and comfortably across the occupants' chests. The automatic shoulder belts are designed to be used with standard lap belts; after fastening the lap belts, the driver and front seat passenger are securely belted.

This system is more expensive to the Company than alternative passive belt systems, but we believe its comfort and convenience will provide a real safety benefit because it will result in higher usage rates.

The 1986–1989 model year period will be one of intense activity in the area of air bag technology. With respect to driver-side supplemental air bags, the focus will be on adopting what we have learned from our pilot program, building up a supply base, and fostering public awareness, understanding and acceptance. With respect to passenger-side supplemental air bags, it will be a time of system design and development.

Ford is continuing to offer supplemental driver air bags on its Ford Tempo and Mercury Topaz four-door models—and is the only manufacturer in the world to offer this technology on popular-priced cars.

We've had excellent results with the careful, progressive introduction of this system. We phased it in by introducing it first on a government fleet, then expanded its availability to other fleets and are now making this option available to retail customers. Thus far there are orders for 5,000 1987 model cars equipped with air bags in Ford's order bank.

There are now over 11,000 air bag-equipped vehicles in fleet service. These vehicles have been involved in 84 crashes serious enough to cause the air bag to deploy. The single fatality involving an air bag-equipped car resulted from an exceptionally severe collision with a large truck. The left-top half of the car was sheared off before the car could be slowed down sufficiently to signal the air bag deploy. The accident was judged by experts to be non-survivable under any circumstances.

In every instance where the bag should have deployed, it did, and in no case has it deployed inadvertently. There have been only four moderate injuries. And in nearly every instance, the driver was belted as is required for full effectiveness of the system.

To date, over 140 million miles have been accumulated on this driver-side supplemental air bag system. Ford wants to utilize this passive restraint technology much more broadly in its future products. Under NHTSA's standard, however, equipping passenger cars with supplemental driver-side air bags is not permitted as of September, 1989 unless the passenger side is equipped with a passive restraint system as well.

During the September, 1986 to September, 1989 passive restraint phase-in period, NHSTA recognized cars equipped with a driver-side supplemental air bag system and today's active driver and passenger safety belts as the equivalent of a car equipped with a pair of passive safety belts. The data upon which NHTSA relied to mandate its passive restraint requirements indicate that the overall safety benefits of the combined system are at least equal to that of a passive belt-only system.

We are pleased that in response to a Ford petition, the government has proposed to amend the passive restraint rule to allow vehicles equipped with the combined system to continue to be sold after the phase-in period is completed.

Ford faces a Hobson's choice if the rule is not amended. The technology choices have already been made for the phase-in period. We are now at the point of committing to suppliers on the passive restraint technology that will be installed on the 60% of our production that is not involved in the phase-in period, but must be equipped with passive restraints beginning September, 1989.

The choice the present rule gives us as a practical matter is between a pair of passive belts or a pair of supplemental air bags. In the case of an air bag-only approach, a manufacturer must gamble that technical feasibility and the supply base for passenger-side air bags will be established in less than three years. The consequence of this deadline being missed would be to close plants and restrict product availability.

We firmly believe that the public interest would be served by NHTSA amending this rule:

It will assure that widespread application of driver-side air bags will not have to be held up until the passenger-side system is proven.

It's a way of getting a large volume of air bags on the road, while continuing to permit use of today's very effective three-point belts. This should quickly provide a significant body of field experience and help reduce air bag costs and prices.

It would facilitate the orderly, evolutionary development of passenger-side, supplemental air bag systems.

These advantages of Ford's petition have been endorsed by many air bag advocates, including representatives of the insurance and medical communities, and by other responsible individuals concerned with improving vehicle safety. If the rule is amended, Ford has committed to install supplemental driver air bag systems on the majority of its North American-designed cars, including its highest volume family-size cars beginning in the fall of 1989.

On the passenger side, Ford's plan is to make supplemental air bags available beginning in the 1989 MY, assuming the engineering and testing now under way prove out, and that an adequate supply base is available. We believe a phase-in period—as Ford undertook with its driver-side system—is absolutely necessary to gain the sufficient experience to answer technical, supply and market acceptance questions and pave the way for widespread availability.

The Ford proposal would not weaken the passive restraint rule. To comply with the Ford proposal, a manufacturer would have to install at least one air bag, committing to a technology that remains far more costly than the passive belt alternative. We believe favorable action by NHTSA will be a strong safety plus for the nation.

## MANDATORY SAFETY BELT USAGE LAWS

The key to the safety effectiveness of any passenger restraint system is usage. According to NHTSA, the effectiveness of occupant restraint systems when used ranges from 20–40 percent for air bags alone to 40 to 50 percent for active three-point safety belts. The effectiveness of three-point safety belts supplemented by air bags has been estimated by NHTSA to be 45–55 percent.

Accordingly, it should remain a top priority for all concerned with traffic safety to push for enactment of mandatory safety-belt use laws in the 26 states that are without them. It is also essential that we work to make the laws already passed really work. The repeal by voters of the safety belt laws in Massachusetts and Nebraska is a disappointment that we must all work hard to overcome. We must also redouble efforts to increase usage in those states that have adopted safety belt laws. The goal of Traffic Safety Now—a coalition of which Ford is a member—is to create a broad atmosphere of public support for safety belt use and for strict enforcement of belt use laws.

### HEAVY TRUCK SAFETY ISSUES

Ford supports the rule that prohibits the disconnection of front brakes. Recent tests conducted by the Insurance Institute for Highway Safety showed tht stopping distances for various loading conditions increased by 24-74 percent when front brakes were disconnected.

Ford also strongly supports the need for a National Drivers License register for operators of heavy trucks. The commercial licensing legislation passed by the Congress at the end of the session should provide an important first step in establishing a uniform nationwide system.

The CHAIRMAN. Thank you very much.

Mr. Bennett.

Mr. BENNETT. Thank you, Senator.

GM welcomes this opportunity to discuss safety with regard to the passive restraints, the rear safety belts, and light trucks.

From the time we introduced the first safety glass in the 1920's, we have been a leader in automotive safety engineering. Our longstanding commitment to improved safety through better engineering and design is formalized through a program known as the vehicle safety improvement program.

Our explicit goal is to provide continuing improvements and protection to both belted and unbelted occupants in all new passenger car and light truck designs.

Through the years, we have found that meaningful safety improvements must be based on two elements—good field accident data and good test technology.

This fact explains General Motors' leadership role in both elements—through the collection of systematic accident data and the development of crash test dummies.

For example, the GM Hybrid III test dummy, recently adopted by NHTSA as an official test device, is the result of years of biomedical research. It is the main tool of our extensive crash testing program, which aims at improving the passive protection we are building into our vehicle interiors.

As we develop basic safety technology, such as the Hybrid III, we make it available to the entire safety community.

There are other important safety improvements which are appearing on our cars and light trucks—antilacerative windshields, stronger door hinges and latches, antilock brakes, improved steering columns and improved steering wheels.

We intend to continue to pursue these built-in safety benefits for both restrained and unrestrained occupant protection.

For 1987, we will offer three point automatic belts on several of our car lines. After the hearing, one of these cars will be available for viewing.

This passive system provides lap as well as shoulder belt restraint. In this three point system, the lapbelt is key because occupant ejection is associated with 25 percent of fatal injuries from all types of accidents, whether they be rollover, or frontal, or side impact collisions.

We have also announced plans to offer an optional driver-side airbag for supplemental restraint on the Delta 88 Oldsmobile, beginning the next model year.

The recent proposal by NHTSA to extend passive restraint credit for such a system past 1990 will, we believe, promote the earlier introduction of this more sophisticated restraint technology. It is clear to us that such a rule change would promote more, and therefore less expensive, airbags.

In order to respond to questions proposed by the NHTSA's proposal, our marketing and engineering staffs are studying what difference the proposal would make in our airbag offerings.

GM's approach to the requirements of the 208 rule has been a systems approach, including the vehicle safety improvement program. For our vehicles, we have designed a passive restraint system to provide the best practical automatic full restraint protection, recognizing the following: The requirements of the 208 rule; the importance of a lapbelt; the rejection of nonseparable automatic lap/shoulder belts by our customers on our 1980 Chevette; and the emergence of belt-use laws.

Beyond the virtually universal and immediate safety benefits which belts provide, belt-use laws are needed to encourage their use, even with passive restraints, such as airbags and automatic belts.

Turning to the issue of light truck and van safety, our vehicles exceed the roofcrush requirements for passenger vehicles. Moreover, these trucks and vans are also developed within the framework of our vehicle safety improvement program, and because this development program goes beyond applicable Federal standards, we believe our vehicles are meeting the safety needs of our customers.

Another important step in vehicle safety is the installation of rear lap/shoulder belts.

GM has long offered these as dealer-installed accessories.

In 1985, we began to examine field data for belt-use and saw that emerging belt-use laws were prompting increased rear belt use. Since rear belt use had long been considerably lower than front belt use, we saw this development as an opportunity to offer increased occupant protection.

We are now including an announcement of the availability of new retrofit kits for rear lap/shoulder belts in a national ad and are examining other opportunities to alert our customers.

A typical customer cost for retrofit of a car's rear seating positions is about $200, including installation. This, of course, will vary from car to car.

GM is the first American automaker to announce the offering of standard lap/shoulder belts in the rear outboard positions in all vehicles.

In January, the Chevrolet Beretta and Corsica, the Olds Toronado, the Buick Riviera, and the Cadillac El Dorado and Seville will receive lap/shoulder belts as standard equipment. A rear lap/shoulder belt equipped Corsica will be available for viewing outside the building after the hearing.

All other cars, light trucks, and vans will have this feature phased into their production by the 1989 model year. We are pleased, once again, to be in the forefront of another safety initiative.

Thank you.

[The statement follows:]

## STATEMENT OF MILFORD R. BENNETT, GENERAL MOTORS CORP.

### INTRODUCTION

I am Milford Bennett, assistant director, Automotive Safety Engineering, for General Motors. GM welcomes the opportunity to discuss the subject of automotive safety and to address the subjects of special interest to the Committee—namely, passive restraints; rear seat belt design; and light-truck safety.

### GM VEHICLE SAFETY IMPROVEMENTS

GM has been a leader in vehicle safety improvements throughout our entire history. For example, safety glass was introduced by GM in the 1920s and the energy absorbing steering column, along with side guard beams were offered in the 1960s—all before regulations. Many such continuing improvements are passive in nature—that is they do not require action on the part of the occupants.

Since 1982, General Motors has formalized its long standing safety engineering and design efforts within a program known as the Vehicle Safety Improvement Program (VSIP). This program is based on extensive studies of field accident data conducted by both GM and NHTSA regarding the contributions to occupant harm associated with individual vehicle components. The goal of VSIP is to provide continuing improvements in protection to both belted and unbelted occupants in all new passenger car and light truck designs.

At the heart of the VSIP program is General Motors' long recognized leadership in the development and application of crash test technology—better injury tolerance values and better measurability with test dummies. We are especially proud of our development work in test dummies. Our Hybrid III dummy, which has been adopted for use in measuring compliance to the occupant protection requirements of Motor Vehicle Safety Standard (MVSS) 208, provides more human-like responses than the dummy currently in use. Thus, it is a valuable development tool for both passive and active restraint programs. The programs include the extensive crash testing we conduct with unbelted dummies to develop the "passive" protection afforded by our vehicle interiors. Our efforts to improve test dummies will continue and such improvement will be made available to the safety community.

VSIP concepts are already being introduced in some of our new vehicle designs. Of special note are improvements in structural properties and geometric relationships of interior components and systems. For example, steering system modifications have been made for improved energy absorption and for better load distribution over the body on impact with the steering system. The energy absorbing steering column characteristics have been improved by modifying the "ball and sleeve" arrangement. To augment this change, structural and geometric changes are being made to the steering wheel, including the hub, rim, and spokes to ensure good load distribution across the upper torso. To further reduce the potential for occupant ejection and to enhance side impact protection, door hardware improvements are being incorporated in the form of stronger hinges and latches. Also, an anti-lacerative windshield is being evaluated on several of our 1986 and 1987 vehicle lines. These improvements have resulted from the guidance provided by field accident data. We believe that "built-in" improvements, like these examples, can significantly reduce total occupant harm in accidents.

General Motors has other programs aimed at improving the safety features of our vehicles. We will be incorporating rear seat lap/shoulder belts into our new vehicles. Another prime example of this effort is our anti-lock brake program. This brake system was standard on one 1986 GM model and is standard equipment on several of our passenger car models in 1987 and will appear on more models in the future.

### PASSIVE RESTRAINT RULE

In July 1984, the Department of Transportation (DOT) issued a regulation requiring automatic occupant restraints unless qualified state safety belt use laws covering two-thirds of the nation's population are enacted. Under the regulation, manufacturers must equip 10 percent of their 1987 fleet with automatic restraints and 100 percent of all new cars by 1990.

GM is complying with the first year phase-in requirements of FMVSS 208 by installing three-point automatic lap/shoulder belts. We believe that this system will provide our customers with excellent overall protection. The decision was made to produce a three-point automatic belt system because it, like our current manual lap/shoulder belt, ensures protection in a broad range of accident conditions. This system does not require additional effort by the occupant to fasten a lap belt. Because a lap belt is included in GM's three-point automatic belt system, the possibility of occupant ejection, an event associated with 25 percent of fatal injuries, is reduced.

The three-point system's compatibility with front bench seats (used for three passengers) as well as bucket seats increases its range of use. A three-point automatic lap/shoulder belt system does not require passenger and driver knee bolsters to restrain the occupant's lower torso in frontal accidents. Consequently, a three-point system provides greater front seat leg room than a two-point system with knee bolsters. In addition, the three-point lap/shoulder belt needs only one release that, in an emergency situation, will detach both the lap and shoulder belts. We believe these attributes will make the system acceptable to our customers and avoid permanent disablement of the system that would prevent future belt use by other users and owners of the car. These systems are being installed on the 1987 Buick Somerset, Skylark and LeSabre, Oldsmobile Calais and Delta 88, and the Pontiac Grand Am and Bonneville.

It is important to recognize that our approach to the rule was a systems approach . . . including our considerable efforts for built-in protection through our Vehicle Safety Improvement Program. We did not design an automatic belt with just customer appeal in mind. We designed a passive restraint vehicle system to provide the best practicable automatic full restraint protection recognizing the following: (1) the requirements of the rule; (2) the importance of a lap belt; (3) the rejection of non-separable automatic lap/shoulder belts by our customers on our 1980 Chevette; and (4) the emergence of belt use laws.

General Motors will offer an air bag option for the driver position on the Delta 88 Oldsmobile vehicles, beginning next model year. This option will enable our customers, who so choose, to supplement the protection offered by the lap/shoulder belt system.

GM pioneered the development of air bags. To date, our expenditures on air bags have amounted to over $160 million. From 1974 through 1976 we had capacity to produce about 300,000 air bag-equipped cars. However, only about 10,000 were purchased during the three-year period. While the marketplace rejected air bags in the mid-1970s, social and marketplace changes have occurred, and we believe more consumers may be willing to invest in this supplemental protection than was the case in the mid-seventies.

In November, 1986, the NHTSA proposed to allow, until the 1994 model year, the use of three-point manual belts for the right front passenger if the car were equipped with an air bag or other non-belt system for the driver. NHTSA further proposed that the passenger manual belts must meet the dynamic crash test requirements of the passive belt systems. GM supports both proposals because, if adopted, they would provide the flexibility needed to encourage innovation and would enable manufacturers to provide non-belt passive restraints, or air bags, sooner than would be the case if a full front seat system were required. The additional time will allow the orderly development of passenger airbags—which is a more demanding task due to variations in occupant-size and the varying distances between the occupant and the instrument panel.

## BELT USE LEGISLATION

If there is one safety feature that stands out as absolutely essential in the effort to reduce occupant fatalities and injuries, it is the vehicle's safety belt system. No other safety device we know of offers more safety protection. That is why we believe strongly in the laws being implemented across the country to require that belts be worn.

The simple fact is this protection already is built into every car. No one needs to do more than buckle up to take advantage of the safety benefit that is available. Because we feel so strongly about safety belt use, we have produced, in conjunction with the American Medical Association, a videotape entitled "Seat Belts and The Family," which attempts to dispel the myths that safety belts are not important, or are even harmful. Particular attention is focused on the use of belts by children and pregnant women. The tape will have nationwide distribution to various medical, educational and public service organizations.

Beyond the virtually universal and immediate safety benefits which belts provide, belt use laws are needed to encourage their use even with passive restraints, such as air bags and automatic belts. A belt system must be worn in vehicles equipped with air bags because air bags alone do not provide protection in many accident configurations. In addition, passive belts could be defeated if their use were not required by law. It will take 12 years or more before passive restraint systems can be in every car on the road. In the meantime, belt use laws will benefit the occupants of cars equipped with both manual belts and passive restraints.

Belt usage currently is required in 24 states and the District of Columbia, covering better than 160 million people in the U.S. population. Because of the new safety belt laws, about 30 million more American have begun wearing safety belts. Some of this improvement is attributable to groups like Traffic Safety Now (TSN), an organization of which we are a member, which has been actively encouraging the passage and implementation of belt use laws. So has the American Coalition for Traffic Safety (ACTS), an organization which is bringing national attention to the benefits of safety belt use and legislation.

Of the 24 states with belt use laws, eight states had laws in effect throughout 1985, and statistics indicate there has been a substantial increase in belt usage. According to a study conducted by the University of North Carolina's Highway Safety Research Center, belt usage in the eight states increased from a pre-law level of approximately 10-15 percent to around 40-50 percent. Furthermore, the study estimated that 400 lives have been saved in those states because the belt use laws were in force. According to the study's author, Dr. B.J. Campbell, director of the Center, if the findings based on the eight states were projected over the entire nation, we could expect 2,000 to 2,500 lives to be saved each year with safety belt use at the 40-50 percent level. And, of course, there has been a correspondingly significant reduction in the severity of nonfatal injuries.

But 40-50 percent belt use is just a beginning. Data from over thirty countries around the world with safety belt use laws in effect indicate that safety belt use rates in the 60, 70 and even 90 percent range are possible. In fact, we know that it can be done here. The latest report from the NHTSA 19 city observational survey shows driver usage rates of 63.9 percent in Houston and 67.1 percent in Dallas. To increase belt use beyond the 40-50 percent level, enforcement and education must continue with increased emphasis. GM will continue to support actively the enactment and enforcement of state safety belt use laws, since these laws are needed regardless of whether air bags, passive belts or manual belts are installed in the vehicle.

### REAR LAP/SHOULDER BELTS

Recent studies by GM and others have confirmed that lap/shoulder belts will offer the rear seat occupant enhanced protection. GM has announced its plans to upgrade rear seat, outboard lap safety belts with lap/shoulder belts in some 1987 models, and will do so for all North American-built passenger car models by the 1989 model year. Lap/shoulder belts also are being phased into rear outboard designated seating positions of light trucks and vans beginning in the 1987 model year. GM is the first U.S. automaker to take this step.

GM is now in the process of releasing for distribution a redesigned dealer-installed rear lap/shoulder belt retrofit system. These accessory packages cover many 1976-1979 GM passenger cars and all passenger cars since 1980. Dealer letters have been sent by the general sales manager of each GM vehicle division informing the dealers specifically about the availability of these accessory packages. Also, dealer installed rear lap/shoulder belt retrofit systems will be made available for light trucks and vans.

We are now considering a variety of approaches to help insure that consumers are aware of the availability of these retrofit systems. At the moment, we are running an ad (copy attached) on safety belts in various national and local publications. This ad is appearing in a broad range of publications and newspapers. The ad includes information about the availability of rear lap/shoulder belt retrofit kits. We are also approaching the insurance industry to encourage them to include information in their policyholder communications about the availability of the retrofit systems. The incorporation of these improved systems in our cars and trucks, combined with the expected increase in safety belt use, constitutes a significant improvement in automotive safety.

GM continues to recommend that rear seat lap belts be worn, where rear lap/shoulder belts have not been installed. It would be unfortunate if the report issued by the National Transportation Safety Board (NTSB), which noted the added benefit of rear seat shoulder belts, actually detracted from the use of existing lap belts. GM is concerned that the publicity associated with the release of the report created the impression that people would be better off not using lap belts when riding in the rear seat of a car. Evidence from several sources clearly shows that, considering all accident configurations, a person riding in the rear seat of a motor vehicle has a much better chance of avoiding serious injury or death by wearing a safety belt than traveling unprotected. This is most clearly demonstrated in the recent field data study by the Highway Safety Research Center which analyzes millions of accidents and concludes that real lap belts are about 45% effective in reducing incapacitating injury.

## LIGHT TRUCK SAFETY

Turning to the subject of light truck safety, our design and development process for these vehicles is conducted under the same set of safety expectations, goals and other guidelines that we apply to our passenger cars—that is, they are part of our Vehicle Safety Improvement Program. Because of these continuing crashworthiness development programs that go beyond federal standards, we believe our trucks and vans are meeting the safety expectations of our customers.

Most all motor vehicle safety standards relating to occupant crash protection apply to light trucks and multi-purpose vehicles (MPVs) such as vans. In fact, a significant number of recommendations contained in the General Accounting Office study [1] on light truck safety have become requirements for light trucks since the study was published in 1978. These include MVSS 201, Occupant Protection in Interior Impact; MVSS 203, Impact Protection From the Steering Column; MVSS 204, Steering Column Rearward Motion; and MVSS 212, Windshield Retention.

Only three current standards for passenger cars do not apply to trucks: (1) MVSS 202, Head Restraints; (2) MVSS 214, Side Door Strength; and (3) MVSS 216, Roof Crush Resistance. Also, the high-mounted stop lamp requirements of MVSS 108 and the passive restraint requirements of MVSS 208 apply to passenger cars only. By virtue of the fact that we design our light trucks for the durability dictated by customer usage, GM's current pickup and the Astro/Safari small vans meet the roof strength requirements of MVSS 216.

The issue of head restraints on light trucks has been debated for some time. Studies by NHTSA have shown the benefits of head restraints to be small even in passenger cars. GM is currently responding to the marketplace demand for high back seats in many models. If new information or field accident experience comes to light to indicate a need for additional head restraint protection, we will respond accordingly.

Although side guard beams are not used in trucks and MPV's, our tests indicate that side impact integrity is good. For example, GM's S-trucks, the Astro/Safari small vans and the forthcoming full-size pickups have undergone high-speed vehicle-to-vehicle side impact testing during the design development of the fuel system crashworthiness. This GM designed test impacts the passenger compartment just aft of the front door. Even in this very severe impact, the integrity of the passenger compartment was maintained.

The experience of light trucks in accidents was examined in two studies by Calspan (Report #7438-1 and #216) for the Motor Vehicle Manufacturers Association. These accident studies confirm ejections as being more predominant for light trucks and vans than for passenger cars. However, the studies observed that those not ejected were injured less than occupants of passenger cars in similar accidents. This underscores the need for belt use and the desirability of belt use legislation. The studies conclude that, on balance, occupants of light trucks in single vehicle crashes are no more at risk than car occupants. The collection of accident data for light trucks is continuing and future analyses will increase the focus on the field performance of the expanding small truck population.

## CONCLUSION

Today there is increased attention being devoted to the driver's role in auto safety—drinking and driving laws and safety belt use laws are two recent examples which are expected to yield significant safety benefits. It is for this and other reasons that GM is the sole sponsor and advertiser for the driver education magazine, "In Motion." The magazine will be distributed, free of charge, twice a year to driver education teachers and more than one million high school students around the country. While these and other driver-oriented measures have not reduced the safety emphasis that is placed on the design of the vehicle itself, it is producing a more balanced approach. They also are helping to raise the safety awareness of the public.

To uphold our commitment to automative safety and to maintain our longstanding leadership in this area, GM intends to capitalize on the opportunities presented by rapidly advancing technology and the increased safety awareness of the public.

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[1] Unwarranted Delays by the Department of Transportation to Improve Light Truck Safety, July 6, 1978.

Between these two elements of transportation safety, we believe our customers will reap the benefits of safer travel on America's highways—the safest highways in the world.

The CHAIRMAN. Thank you, Mr. Bennett.

Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

The committee has asked for testimony on passive restraints, rear seat shoulder belts, and light truck safety.

In the time I have today, I will summarize Chrysler's position on those areas.

We would be pleased to discuss these subjects in more depth with you or your staff at any time convenient to you.

Let me say first, however, that we are delighted with the progress which has been made over the past 2 years in changing the mindset of many of our State governments and citizens to accept the concept of mandatory safety belt use laws. It is certainly true that most of these laws do not meet the DOT criteria. But, nonetheless, it has been our opinion all along that the use of safety belts would provide an immediate improvement in highway safety. And that is the way it is working out.

The 10-percent fatality reduction in States with belt-use laws is very gratifying to all of us.

On passive restraints, we have had a research and development program in place for several years, seeking to find the best method of passive occupant protection for our automobiles.

MVSS 208 has caused Chrysler and all other manufacturers to begin a phase-in of such restraints on the schedule we all know. This phase-in will result in a wide range of passive systems being offered by manufacturers, and should result in a true, competitive market test to find the system most acceptable to the consumers. For Chrysler, our first cars with passive restraints will be the Dodge Daytona and the new Chrysler LeBaron coupe, which come to market early in 1987. These cars will be equipped with a two-point fixed passive safety belt, along with a knee support and a manual lapbelt, a system which we hope will meet with good customer acceptance.

Obviously, we are not going to stop there, and over the next several years, we plan to produce cars with other systems, such as two-point motorized belts and airbags.

Today we would like to announce that we plan to produce at least one model with driver airbags as standard equipment during the 1988 model year, and that our plans include an increasing number of airbag equipped cars in ensuing years.

From our customers and from real-world accident data, we will learn which of these systems is most effective and acceptable.

On light trucks, there has been a great deal of publicity recently. I am afraid the general public has the idea that both NHTSA and the manufacturers have neglected these vehicles, but that is not the case. In fact, over the last few years, we have continued to study light truck safety, and, as a result, we plan to incorporate new features into our light trucks over the next several years.

One of those features is antilock braking.

We see no evidence from the mass accident data files that light trucks cause any higher degree of injury than passenger cars. In fact, they indicate that overall light truck safety is quite comparable to that of passenger cars.

This suggests that trucks may not need all the same standards as cars because there are distinct differences between cars and trucks.

For example, trucks are higher from the ground, which means that NHTSA may have had good reason not to apply the door strength standard to trucks, because existing truck body structure is performing the same function as the passenger car door beams.

Similarly, trucks have body fillers, full-framed doors and no hardtop body styles, making the value of the roof crush standard questionable.

In fact, every one of our trucks and vans which we have tested exceeds the passenger car roof crush standard, even though the standard does not apply to them.

It seems appropriate to us, before we automatically apply car standards to trucks, that we analyze accident data thoroughly to see if those same standards are needed for trucks. We believe the various accident data files at NHTSA contain enough information to make an informed judgment on each issue, and that such research should be done before any final conclusions are made.

On rear seat shoulder belts, the National Transportation Safety Board published a report on the effectiveness of rear seat lap-only belts. This report has been highly controversial because the Board's conclusions were based on only a few selected injury accident, rather than a statistically valid sample of the thousands of accidents in the national data bases, and because of the harm done by this report, which has been widely misinterpreted to criticize the effectiveness of all safety belts, both front and rear.

Despite this, the report has led to industrywide action on rear seat belts. Chrysler, and we believe others as well, are moving as quickly as we can to incorporate rear seat shoulder belts in our new cars, and we also offer a dealer installed belt for existing models. We take this occasion to announce that we plan to have these dealer installed belts available in February 1987—next year.

In conclusion, in addition to the subjects which we have discussed here briefly, we have committed substantial resources to safety development programs, which will come to market over the next several years. In total, these programs constitute an extensive commitment to advancing the safety performance of our cars and trucks.

That is the end of my prepared remarks. Thank you very much.

The CHAIRMAN. Thank you, Mr. Kennedy.

Now, Ms. Petrauskas, as I said earlier, my concern about the petition filed by Ford is that it lacked consideration flowing the other way; that is, there was no real commitment that I saw in Ford's position either to installing airbags during the interim period or having any airbags in any cars after the end of the period.

I am told that I was mistaken in that and that, in fact, Ford is making a real commitment; that is, its position, as I understood it, was, in all likelihood, a majority of some of its cars would have driver-side airbags during the interim period and then, after that, there was no commitment to anything relating to airbags.

Now, my interest is airbags. That is my interest. That is what I want done. I want airbags in cars. I would like airbags in all cars. I would like airbags driver-side and passenger-side in all cars. I don't think that other passive restraints do the job.

Now, what commitment is Ford Motor Co. making to airbags—first, during the interim period; and, second, subsequent to the interim period? And permanently.

Ms. PETRAUSKAS. During the interim period, that is, the period that would be covered by our petition, in the first year of that period, it would be our intention to install driver-side airbags on a very large volume of our vehicles.

While I would prefer not to publicly disclose the exact number, I can certainly say that we would expect that number to be much closer to 1 million than it would be to 500,000—per year. Those are driver-side airbags.

The second commitment we have made——

The CHAIRMAN. That is a commitment. I mean, you have said that that is an intention. But would you state that as a commitment on the part of Ford?

Ms. PETRAUSKAS. Yes, sir. I will. And I have.

The CHAIRMAN. Between 500,000 and 1 million a year driver-side airbags.

Ms. PETRAUSKAS. Yes. Actually, I went a little further than that and said it's closer to 1 million.

The CHAIRMAN. All right. Good.

Ms. PETRAUSKAS. I might add that, again, we deliberately structured our proposal in such a way that it only applies to a manufacturer who, in fact, installs airbags. For those manufacturers that do not install airbags, the proposal turns into a pumpkin, if you will. It doesn't do anything for that manufacturer.

So the proposal has its enforcement built right into it, if you will.

With respect to passenger-side systems, it is our current plan to try to offer the first such system in the 1989 model year.

Now, I cannot make, regretfully, as strong a commitment with respect to passenger-side airbags simply because there is additional work to be done. I can say that we are committed to assuring that the work, in fact, is done, both by us and by our suppliers.

We are working very, very hard on a very, very specific schedule, to try to bring home that first passenger-side bag application.

The CHAIRMAN. Now, looking down the road to 1994—is it 1994 or 1993? It's 1993, I guess—what will happen then?

In other words, is there a possibility that, after the interim period, there will be no airbags in Ford cars?

Ms. PETRAUSKAS. I think that would be extremely unlikely. The only circumstance in which I could envision it would be if something truly catastrophic and unexpected happened. I have no basis, we have no basis for assuming such a thing would happen. I think, quite the contrary, we believe we are at the threshold of a real opportunity for both the driver and passenger-side bags.

As we get large volumes of driver-side bags, as the prices and the costs come down, as people get used to the experience of having an airbag on their car, even though it is just on the driver side, it is hard for me to think of a more powerful push for passenger-side bags than that.

The CHAIRMAN. All right.

So, after the 4-year interim period, it would be certainly the intention of Ford to have airbags installed in both the driver's side and the passenger's side of all cars? Would that be the idea?

Ms. **Petrauskas**. Let me put it this way.

I would expect that the number of cars that are equipped with airbags, either as standard equipment or that have airbags available as optional equipment, would go up after the close of the interim period, rather than down.

The **Chairman**. Is it Ford's intention, therefore, to use airbags as the passive restraint of choice, as opposed to automatic belts?

Ms. **Petrauskas**. It certainly will cover the majority of our vehicles. So, in that sense, it would be the more predominant form that we would use.

I think at least near-term, there will continue to be models on which we offer passive belts, rather than airbags.

I have to speculate here a little bit because I am talking so far in the future. But I think the decision of whether a manufacturer can go to 100 percent airbags will, to a large extent, be a function of both public acceptance and cost.

Clearly, the lower the costs of the system, the more attractive it becomes as a 100-percent system, not just to us but to consumers as well.

The **Chairman**. What is your best belief?

What is your view as to what is going to happen?

Ms. **Petrauskas**. My view is that, as we get into high volume production, as we get into what I would call newer technology airbags, I think the costs are going to come down from those you are seeing today, and they are going to come down dramatically.

The **Chairman**. And—therefore?

Ms. **Petrauskas**. And, therefore, I would expect to see the greater usage that one would associate with a lower cost approach.

The **Chairman**. Now let me just ask you one other question.

I have become quite cynical about NHTSA, and about the U.S. auto industry in safety matters. It has been my view that the basic role of NHTSA for the last 6 years has been to backpedal, to find loopholes, to study things to death—not to meet time deadlines; and that it's been the basic role of the auto industry to find loopholes and so on.

Now you, I am sure, would say oh, that's not fair, that's not right. But it is my perception, and that is the background for the question that I am going to ask you.

I want to rely on your word. Now, I know that you are not here to sign a legal contract. But what I don't want is a situation where you are very carefully choosing your words, looking for escape hatches, and there is any kind of mental reservation in what you are telling me.

Now, is there any mental reservation?

Is this yet another gimmick or trick?

Ms. **Petrauskas**. No, sir.

The **Chairman**. Then am I correct in assuming that Ford Motor Co. does intend to install driver-side airbags during this interim period in closer to 1 million than to a half million vehicles; and, further, that it is pursuing the airbag as the preferred technology of the future; and that it does intend the airbag, as opposed to alternative passive restraint devices, to be the system that will be in place after the 4-year period of time?

Ms. PETRAUSKAS. The things I have said in my statement and in response to your questions I have said with no unstated reservation. Perhaps the best way of demonstrating the commitment we have made as to the number of driver-side airbags we plan to have is to say this.

We can't work on two systems for each of our cars simply because there aren't enough trained engineers, either in our company or in the supplier community to do that.

We are very shortly, therefore, going to make a bet-your-company kind of commitment, because we will be proceeding with an airbag approach on very many of our products, and there will be no turning back. There will not be time to turn back.

We will be committed not in the sense of being committed because we say so; we will be committed because time and events will commit us.

We will have burned our bridges behind us very quickly, now, in terms of making that decision.

The CHAIRMAN. I have confidence in what you are telling me. I do believe that I was unjustifiably critical when the decision was made, and I am relying on what you have just told me. I think that, in light of that commitment, NHTSA's approval, tentative approval, of the Ford request is justifiable.

I am absolutely trusting in the good faith of the representation that you have made. I would be extremely disappointed, and I would hope that the public would be outraged, if this turned out to be just another gambit in order to further delay the installation of airbags.

Ms. PETRAUSKAS. I understand.

The CHAIRMAN. Mr. Bennett, what kind of commitment is General Motors prepared to make to airbags? I'm not talking about any old passive restraint system, but airbags.

What kind of commitment is General Motors prepared to make?

Mr. BENNETT. You have already heard, Senator, that we are going to introduce a driver-side airbag. So, in that sense, we are committed to have airbags.

The CHAIRMAN. But it sounded to me—and maybe I didn't hear correctly—but it sounded as though it was a very modest commitment.

Mr. BENNETT. It's a very modest commitment in the sense that it is our first time around. It is the first offering this time around, and we need the time to develop further, to get more airbags into the system.

The CHAIRMAN. Is it an optional airbag?

Mr. BENNETT. In 1988, it is an optional airbag.

The CHAIRMAN. And it's just for one line of automobile?

Mr. BENNETT. It's for one line of automobile.

The CHAIRMAN. Which is what?

Mr. BENNETT. The Delta 88 Oldsmobile.

The CHAIRMAN. That would be very small sales relative to total GM sales, I would imagine.

Mr. BENNETT. That's correct, sir.

The CHAIRMAN. How about in future years?

Mr. BENNETT. In future years, airbags are coming.

I guess I would like to comment that the logjam, we believe, was broken with the current 208 rule, as far as airbags are concerned. We are moving toward them, as you watch the marketplace. We can see airbags in the future.

So, in that sense, there definitely is a commitment, I think, for the industry.

We have airbag programs underway. But I think that this proposal that the NHTSA has just issued is a real opportunity to bring airbags much closer to us and much quicker.

The CHAIRMAN. Ford Motor Co. takes the position that it can't walk in two directions at the same time. But GM plans to? In other words, you plan to develop both airbags and alternative passive restraints, passive belts, all at the same time?

Mr. BENNETT. No, sir.

I think that the constraints that Ford has talked about bear on all of us, and those will have to come into play in the planning that is going on now.

We have not worked out any firm plan on how we are going to respond to this marketplace situation. But you can be assured that we will, and those will be communicated to NHTSA very shortly.

The CHAIRMAN. I eagerly await GM's position.

You have heard Mr. Ditlow today describe your passive restraint system in less than flattering terms. Do you have any response that you would care to make?

He feels that it is very cumbersome and unattractive for consumers, and easy to disconnect, and, basically, is a circumvention of the Secretary's decision.

Mr. BENNETT. I don't think it is a circumvention at all. Whether it is cumbersome or not, I think one needs to use it.

If you get a chance to see the car after the session today, I think you will see that, in order to provide full restraint protection, which was our objective, there is a certain inconvenience that enters in. But it is a fully usable passive restraint device.

The CHAIRMAN. Again, just to reiterate my own position, I am not satisfied with passive restraints other than airbags. I don't know how long the option is going to be available. But it is pretty clear to me that sooner or later we are going to have airbags and not spider webs.

Mr. BENNETT. Yes, sir. I agree with you.

The CHAIRMAN. Mr. Kennedy, how about Chrysler?

What kind of commitment is Chrysler prepared to make to airbags?

Mr. KENNEDY. Over the past several months, we have been reevaluating our plans for 1990 and later, largely because of the proposal from NHTSA for a one-car credit for an airbag on the driver's side.

If that assumption continues to be valid, if that petition is granted, we plan to have driver-side airbags in most of our cars in 1990.

The CHAIRMAN. You believe you will have airbags on the driver-side in most of your cars by 1990?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Is that the current planning of Chrysler?

Mr. KENNEDY. It is as long as the NPRM continues in effect, yes.

The **Chairman**. How about down the road? What would be your intention down the road?

Mr. **Kennedy**. That, of course, is a little less definite. But the NPRM, as currently written, would allow us to work on passenger-side bags in an orderly manner, with the assumption that they may well come along.

Under other circumstances, we will be diverted from the right side airbag.

The **Chairman**. Well, are you working on it now?

Mr. **Kennedy**. We are not working on it now for the right side. We do not have any more ability to carry dual programs better than anyone else.

If NHTSA grants that NPRM, we will be able to look at the right side.

The **Chairman**. How long does that take, to look at the right side?

I am not an engineer, but it would seem that it should be a kind of urgent process, rather than a leisurely one.

Mr. **Kennedy**. It is, of course, impossible to predict when you can solve a problem to which we currently do not have an answer. We would be working internally and with our vendors, and we will stay abreast of all the developments. That will lead us, probably, where it leads the rest of the industry.

The **Chairman**. Thank you all very much.

The next witness is Richard Landis, Associate Administrator for Motor Carriers, Federal Highway Administration.

Mr. Landis, thank you very much.

## STATEMENT OF RICHARD LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. **Landis**. Good morning, Senator.

Mr. Chairman, I am here this morning to discuss a variety of issues related to motor carrier safety, and have a written statement for the record. I would like to summarize the statement with your permission.

I will start by stating that this important hearing tops off what must be described as a landmark year for motor carrier safety efforts. I have heard that term several times this morning. I think it is very appropriate.

It is particularly pleasing for me to work in an environment where safety has been placed so high on the priority list. Secretary Dole and Administrator Barnhart have helped me so much in keeping the focus on safety within the department and within the motor carrier program.

You, Mr. Chairman, and this committee must also be commended for initiating very serious, badly needed, and sometimes bold, action for overall improvement of safety throughout the Nation's motor carrier industry.

The Motor Carrier Safety Act of 1984 is a fine example of the initiative that I am talking about. Its many provisions are having a major impact on our safety system. The act is far-reaching and gets right to many of the identified problem areas.

National uniformity, for example, is a critical issue requiring action. The act responded by directing the submission of all State regulations dealing with the subject for subsequent review by a carefully selected regulatory review panel.

I am pleased to report that the panel was formed and is made up of the finest talent, experience, and dedication that I think one can find anywhere.

Our States responded to the call and submitted their regulations and laws, which are contained in 68,000 records, a stack of papers which stands about 4 feet high. I think this, in itself, says something about the real need for this review and the understandability of the problem of uniformity.

We have selected a contractor to compile and automate the comparison process. The panel has met and is about to begin the arduous task of comparing the State and Federal regulations to determine stringency.

Of course, much is yet to be done. But the task is well underway.

The forward-looking provision in the act for determining the safety fitness of motor carriers has become a major ingredient in our restructuring of the FHWA Office of Motor Carriers. Our reorganization is, in large part, designed to align our staff units in a functional arrangement that will help us better focus on those carriers which represent the greatest threat to safety. Safety fitness, as you envisioned in the act, will, once we have crossed a couple of additional hurdles, be a very important factor in that new process.

The act's provision regarding investigation of complaints has been quite effective, at least in terms of the number investigated throughout the country. Of course, not all complaints have been valid; but surely enough of them have helped locate substantial violations.

I am also pleased to say that I have not received any reports of harassment or retribution toward any individual for reporting a violation in accordance with that section.

We have realized very significant benefits from the application of the civil penalty provisions of the act. The results we have documented show dramatic increases in field staff enforcement actions.

Fiscal year 1986 enforcement activity increased 28 percent over 1985, and 43 percent over 1984.

I think this is especially notable because it was accomplished in the midst of major organizational changes and when additional emphasis was being placed on the Motor Carrier Safety Assistance Program.

As we redefine our procedures to adapt to all of the benefits of the civil penalty system and get them into the program, the results should be even more impressive.

The act's provision requiring us to repromulgate the Federal safety rules and regulations is a far-reaching and much needed step in the motor carrier safety system. We want very much to complete this task, but it has turned out to be a very formidable task and effort.

I think we all knew that it would be a very ambitious challenge, and I know that we started the project with the finest intentions and certainly the commitments. Today, however, we are still at it. The time is being consumed by many things. A critical need for the highest quality has slowed the process. The true complexity of many of the issues has required more study and detailed work. And, of course, many additional activities have come our way which have caused us to occasionally change priorities and sometimes shift our valuable resources.

Mr. Chairman, my written statement lists the actions that we have underway and I assure you that we are working very hard to get them completed.

I am convinced that the result of these actions will be high quality regulations which will incorporate safety improvements, as well as improvements for industry and Government efficiencies.

As I said at the start, I believe it is a critical time for our program. The act and other recent legislation are certainly going to help us all.

I am very excited about the program and am convinced that we will do well. We are sometimes slow, sometimes, Senator, but we really are making progress.

The CHAIRMAN. Well, you are not only not doing well, you are not doing anything.

Mr. LANDIS. Oh, we are doing an awful lot, Senator.

The CHAIRMAN. Well, we passed the Motor Carrier Act in 1984. We set deadlines for you. We have told you that by January 1986, you were to develop an annual inspection program for trucks. You have not developed such a program. We are almost a year late.

When do you plan to act?

Mr. LANDIS. The programs are in development. The rulemaking is underway. They have not been issued yet. I agree with that position.

The CHAIRMAN. It's been 3 years.

Mr. LANDIS. It's taking that long to get it done correctly, Senator.

The CHAIRMAN. How could that be—3 years to develop regulations?

You know, this is supposed to be a Republican administration, one that is efficient and does not get bogged down with bureaucracy. People are going to say that we are pointy-headed bureaucrats.

Mr. LANDIS. I agree with your statement. Being a new person to the system, it has been as frustrating to me as it has to you, Senator.

The CHAIRMAN. All right.

How about driver qualifications and hours in service?

Incidentally, how long have you been in this job?

Mr. LANDIS. A little over a year, sir.

The CHAIRMAN. Didn't you testify last year before us?

Mr. LANDIS. Yes, we did.

The CHAIRMAN. And tell us that you intended to meet the deadlines?

Mr. LANDIS. We are trying very, very hard to do that. We are doing the best we can.

The CHAIRMAN. They're just too hard for you?

Mr. LANDIS. It's not that they're too hard. They are very complex. We have an extremely full plate, but we are making progress.

I guess I cannot emphasize that more. We truly are making progress with them.

The CHAIRMAN. Hours of service requirements—what are you doing on that?

Mr. LANDIS. The hours of service requirements are being reviewed now. We have six minor changes that have been considered, all of which will require some study.

We, of course, learned from experience the last time we tried to change that rule and were turned around in court. So it has been a much more detailed process to get it right this time and not make the mistake we made last time.

The CHAIRMAN. Driver qualifications?

Mr. LANDIS. Driver qualifications is in the same boat.

The CHAIRMAN. Are there States in which any old person or young kid can go in and get a license to drive a truck?

Mr. LANDIS. Oh, sure there are. We know that now. That was the basis for our input and our action on the commercial driver's license, attempting to get at the classified license, to put an end to some of that. The driver qualifications that are on the books now are still effective.

We are not without driver qualifications requirements, certainly.

The CHAIRMAN. But they are clearly inadequate.

Mr. LANDIS. What we are trying to do is to improve them. The changes that we have are designed to improve them.

The CHAIRMAN. What is your view of tachometers?

Mr. LANDIS. Tachographs?

The CHAIRMAN. Yes, tachographs. What is your view of them?

Mr. LANDIS. A tachograph is a system that is useful. It is used throughout the industry. But it doesn't do what I heard earlier today it was intended to do.

We have been involved in rulemaking in the past which looked at tachographs. The problem with the tachograph is that it only monitors the vehicle. It does not monitor the driver. It does not tell who gets in and out of the vehicle. So it doesn't deal with the hours of service problem.

What is occurring now and is presently available within the industry is the use of onboard computers. These onboard computers have capabilities beyond the tachograph in that they can monitor the vehicle and, in some cases, the driver.

We are cooperating with and have granted an exemption to a large private carrier in the country who is testing this quite effectively. We are impressed and excited about the results.

We have now a request for exemption from another large carrier that wants to experiment with a new generation of those computers.

But the tachograph is useful; however, I think it is being overtaken by new technology. It does not really do what I think some would like it to do.

The CHAIRMAN. Do you agree with—I think it was Mr. O'Neill—who said that the Europeans are far ahead of us in truck safety, and that there is a lot that we can learn from the Europeans?

Mr. LANDIS. There is no question that there is a lot we can learn. I am not convinced that they are that far ahead of us.

I was recently on vacation in Europe, and looked at heavy trucks operating in Great Britain. They have certain protective sides on them and so forth, but I don't think that is the answer. I don't think the use of tachographs is as widespread as it might be.

We can certainly learn from their technology in the braking issue.

The **Chairman**. Let me tell you the perception.

It is my perception, and I think it is also the public perception. The view is that we have a situation now where trucks are operated that are clearly in unsafe conditions.

I think, as I remember the statistics, in Maryland there were extensive checks on trucks, and it was found that some 70 percent of them were not fit to be used. Virtually every time anybody picks up the newspaper or turns on the television, there is a story about some truck crash, where brakes have failed and people have been killed.

Last night, I just turned on the evening news, and there it was.

We have required annual inspections. They are not taking place. And the perception, which I believe is a fair one, is that we are just not doing the job in assuring that we have safety.

With respect to qualifications of drivers, it is clearly ridiculous to have people on the road who have no more idea of how to drive these things than I do.

With respect to hours of service, just ask anybody who is involved in trucking. The pressure from shippers is extreme. They feel that they must deliver by a certain time. They are exceeding hours of service requirements. There doesn't seem to be any handle on it.

Congress passes legislation, and 3 years later nothing is done about it, and we're told oh, this is terribly difficult, and it really appears to be a foot-dragging operation.

Mr. **Landis**. Senator, I talk to the same people that you do as I travel around the country, both within and maybe even more importantly, outside of the industry. I hear exactly what you hear. That perception is real. That perception is there, every place you go.

The **Chairman**. And the statistics are there to back it up.

Mr. **Landis**. The statistics are there and, of course, it is highlighted every day by the news media. As long as that continues, it is going to be an issue.

My goodness, we can't say that we're not doing anything.

The **Chairman**. What are you doing?

Mr. **Landis**. We are gearing up and reorganizing a unit to put people, their talent and skills, and the resources in place so that we can get through some of the log-jams that we have right now.

The **Chairman**. What can you show for it, Mr. Landis? That is the point.

It really does not appear that you are doing anything.

Mr. **Landis**. Well, it may not so appear. If that is the case, it is unfortunate, because it is an unfair perception. Again, a tremendous amount of work and effort is being put forth to accomplish these objectives.

The **Chairman**. Studies. Studies being made?

Mr. **Landis**. Well, you have to study. Some of these things are just not as straight-forward as you would like them to be.

The rule-making process, as I have found since I have been here, is not easy. It is not meant to be fast, unfortunately. But we're trying. We're trying to work as best we can within that system.

The CHAIRMAN. All right.

Thank you for your testimony.

Mr. LANDIS. Thank you.

[The statement follows:]

## STATEMENT OF RICHARD P. LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Subcommittee, Good Morning. My name is Richard P. Landis and I am the Associate Administrator for Motor Carriers, Federal Highway Administration (FHWA). Secretary Dole and Administrator Barnhart have asked me to convey to this Subcommittee their very strong interest in promoting the safe operation of commercial motor vehicles on this Nation's highways. Minimizing work-related dangers to the health and safety of drivers and other motor carrier employees and, of course, the public, has long been a concern to us. Noncompliance with commerical motor vehicle safety laws, regulations, and practices has been and will always be a major concern.

Before getting into the status of the rulemaking called for in the Motor Carrier Act of 1984, I would like to discuss some very encouraging developments.

As you may be aware, the Secretary has recently authorized the hiring of 150 new field safety investigators to enhance our efforts in carrying out the Congressional mandate to assign a safety fitness rating to all motor carriers. To date, we have hired and provided initial training to almost 100 new safety investigators. The balance will be on board by next spring.

In addition, I am very pleased to announce that the reorganization within the FHWA, which will enable more effective execution level service positions with separate organizations under my office which serve as focal points for motor carrier regulations and for motor carrier grant administration and technical assistance to the states.

Certainly, the enactment of the Motor Carrier Safety Act of 1984 has provided an additional significant step toward regulatory uniformity with the anticipated results of reduced truck and bus involved accidents. This trend is becoming more evident. Federal Highway statistics for 1984 show that vehicle registration, diesel fuel consumption, and miles of operation have been increasing. However, the accident statistics available through my office indicate that fatalities have decreased by 3% and injuries by 2% during that same time period.

Motor carrier safety efforts have been further enhanced by the recent passage of the Commerical Motor Vehicle Safety Act of 1986. I commend Senator Danforth for his leadership in the passage of this legislation which provides needed increased funding for the Motor Carrier Safety Assistance Program (MCSAP) through 1991 and establishes the new Commerical Driver's License Program.

Today I would like to provide a summary of our efforts in implementing the requirements of both of these legislative initiatives.

### MOTOR CARRIER SAFETY ACT OF 1984

The Motor Carrier Safety Act of 1984 required the Secretary to issue revised regulations pertaining to commerical motor vehicle safety. The Act required that the regulations be issued after consideration of costs and benefits, and the impact on state laws and regulations. While the Act indicated that the revised regulations be issued within 18 months of the date of enacment, the complete review and reissuance of the Federal Motor Carrier Safety Regulations (FMCSR) turned out to be a formidable task. The regulations address very technical equipment standards, as well as complex and controversial medical standards, which necessarily have required considerable research and study before initial drafts of revised regulations could be prepared. Further, each rulemaking action has to be supported by a cost-benefit analysis and a small entity impact analysis, and is subject to requirements of the Paperwork Reduction Act. While this process has been time-consuming, we believe that it will produce an improved system of safety regulation that will stand the test of time.

To assist this Committee, I will provide a brief overview of the progress and status of the rulemaking actions currently underway.

A Notice of Proposed Rulemaking (NPRM) was issued in June of this year which relates to the safety fitness determination process as required by Section 215 of the Act. This was not a simple task since it involved a complete review of our existing program. The NPRM proposed a process designed to accomplish the Congressional objectives by redesigning our on-site assessments, reviewing all available data, and collecting information from carriers through a questionnaire. The results of these reviews will be used to rate motor carriers as "satisfactory", "contitional", or "unsatisfactory". The docket commets to the NPRM are currently under review.

An example of the difficulty of this rulemaking can be seen by looking at the questionnaire which is intended to be a one-time reporting requirement for carriers to supply information on their safety practices and would be the basis for a permanent file on each carrier. Although the initial questionnaire to obtain information on a carrier's safety program is still in the proposal stage, we have developed and pilot-tested a Safety Review Procedure to determine whether motor carriers have adequate programs to check and monitor compliance with the safety regulations.

With regard to the reissuance of the major parts of the Federal Motor Carrier Safety Regulations, the Department has faced a significant number of complex tasks. For example, we have examined the potential cost burden on carriers that would result from upgraded driver qualification rules, specifically if biennial and post-accident drug screening are required. Other considerations in relation to drug screening have included chain of custody and the quality of specimen analysis. We have also been involved in developing the logistics of requiring every commercial vhicle in interstate commerce to be inspected annually (an estimated 5,000,000 vehicles). This has included determining whether these inspections should be done by the states, private garages, or carriers as self inspectors, and to what level of detail. The Department is also considering the paperwork burden, costs, and time that motor carriers would be required to incur in properly screening driver applicants, as well as the levels of workplace protection carriers must afford employees to assure a safe working environment.

I would like to highlight briefly the actions taken to date to put truck safety issues before the public.

### PART 394—ACCIDENT REPORTING

A Final Rule was published in the Federal Register on February 20, 1986, (51 FR 6121). The threshold for property damage accidents was raised from $2,000 to $4,200, the definition of bodily injury was clarified, and the clarifying the issue of timely filing was addessed.

### PART 391—QUALIFICATION OF DRIVERS

In a NPRM issued on May 13, 1986 (50 FR 17572), we proposed to establish more stringent driver qualification rules for drivers of vehicles used to transport certain hazardous materials. Our proposed rule includes a 25 year minimum driver age requirement, one year commercial vehicle experience, road testing in the type of vehicle to be driven prior to issuance of a license, a requirement that drivers hold only one driver's license, more rigorous testing requirements regarding knowledge of hazardous materials regulations, and mandatory biennial drug screening.

The FHWA amended the Federal Motor Carrier Safety Regulations effective June 12, 1986, by revising the prohibitive language of the nonalcoholic drug medical standard for interstate and foreign commerce drivers. This amendment prohibits the use of certain drugs, whereas the previous rule prohibited the driver from having a current clinical diagnosis of drug dependence. This change in the rule was necessary because the previous language could allow known durg users to continue to drive commercial motor vehicles in spite of the knowledge of their drug use. In addition to the final rule, the FHWA requested comments and information on the question of whether the prohibited nonalcoholic drugs should include all controlled substances on the Drug Enforcement Administration's Schedules of Controlled Substances. Further, comment was requested on whether chemical testing of body fluid of all drivers in interstate or foreign commerce should be recommended or mandated and when such testing should take place (i.e., preemployment, biennial physical examinations). Also, comment was requested on what should be the procedure for confirmation of test results and specimen handling security.

### PART 395—HOURS OF SERVICE OF DRIVERS

In a NPRM issued on May 9, 1986 (51 FR 17214) we proposed to review the commercial vehicle driver hours of service standards, principally to address opportunities for paperwork burden reduction and to clarify and incorporate interpretations. Because the existing hours of service regulations have been subjected to a great deal of research, lengthy rulemaking proceedings, and civil litigation over the past few years, we are not considering any major changes. The proposed changes relate to information items on driver duty status records, clarification of the 100-mile radius exemption for on-board record keeping, and assuring that all compensated work is counted as "on duty" time in computing drivers' hours of service limitations on a daily and weekly basis.

### PART 390—GENERAL

In an ANPRM issued on January 23, 1985 (50 FR 2998), we requested comment on a proposal to incorporate new conforming statutory definitions, modify the definition of "exempt intracity operation", require standard vehicle identification, clarify current ambiguities in the regulations and eliminate redundancy.

### PART 392—DRIVING OF MOTOR VEHICLES

In an ANPRM issued on January 23, 1985 (50 FR 2998), we requested comment on any items the interested public felt should be addressed under this part.

### PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

In an ANPRM issued on January 10, 1985 (50 FR 1245), we proposed to establish specific requirements for axles, brake systems, frame assemblies, lights, natural gas fuel systems, steering systems, suspension systems, and wheels and rims. These requirements were previously covered only in general terms by the regulations.

### PART 396—INSPECTION, REPAIR, AND MAINTENANCE

In an ANPRM issued on January 10, 1985 (50 FR 1245), we requested comment on a proposal to establish Federal inspection standards for motor carriers as required by Section 210 of the Motor Carrier Safety Act of 1984. These standards would be utilized by a State inspection program, an authorized self inspection program, or by a private vendor, to assure every interstate commercial vehicle is thoroughly inspected at least once each year.

### PART 399—EMPLOYEE SAFETY AND HEALTH STANDARDS

In an ANPRM issued on January 23, 1985 (50 FR 2998), we requested comment on a proposal to require a general duty clause for both employers and employees to provide a safe working environment in, on, or about a commercial motor vehicle.

We have made progress and we are proceeding to complete other related efforts as quickly as possible. Fortunately, Congress provided for the automatic adoption of the existing Federal Motor Carrier Safety Regulations which were not revised within the 18-month period.

Let me share with you an example to illustrate the complexity of the issues we face in the rulemaking process. The FHWA issued an NPRM on July 3, 1986, proposing to rescind the exception from the requirements relating to front brakes currently provided for trucks and tractors with three or more axles. The NPRM requested public comments by August 4, 1986. On its face, the rulemaking addresses only one issue—proposing to require working brakes on all wheels of new vehicles engaged in interstate commerce and requiring retrofitting of vehicles manufactured after July 24, 1980. Existing equipment manufactured before that date would be exempt. We felt that the grandfather provision was necessary due to the limited availability of replacement parts.

This issue proved not to be simple, although the Commercial Motor Vehicle Safety Act of 1986 recently clarified many of the questions. Thirty-seven (37) parties filed comments to the docket. Twenty-three (23) parties supported the rule, twelve opposed it. Two commenters addressed front wheel limiting valves, which were not included in the proposal. Those in support included manufacturers, state enforcement agencies, labor unions, and major trade associations. Those opposed included in owner operator association, individual owner operators, and several trucking companies. The principal concerns of those against the proposal were cost, limited availability of parts and the continued belief that front-wheel brakes induce jackknifing.

In an effort to substantiate or refute the jackknifing concern, on September 19, 1986, the Department conducted a public demonstration of commercial vehicles braking on dry and wet surfaces, with front wheel brakes engaged and disengaged. The demonstration was performed to test stopping capability, vehicle stability, and directional control with operable front brake systems manufactured with modern day technology and standards. The demonstration was conducted at the Department's vehicle research center at East Liberty, Ohio. The demonstration tests illustrated the benefits of operable front brakes. The demonstration was well attended and we expect the results will convince drivers and trucking companies that front-wheel brakes indeed improve the safety of commercial motor vehicle operations. A final rule has been prepared and is now under internal management review. We expect to issue the final rule requiring front brakes by January 25, 1987, as required in the Commercial Motor Vehicle Safety Act of 1986.

## COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1966

Now, I would like to turn to the other aspects of our implementation of the Commercial Motor Vehicle Safety Act of 1986. This legislation increased MCSAP funding and established the Commercial Driver's License Program. The increased MCSAP funding will allow the states to significantly expand their vehicle inspection and enforcement activities. MCSAP authorizations through 1991, coupled with the extension of contract authority to the program, provide a stable funding source for the states to plan and implement a comprehensive enforcement program over the next few years. It is fully expected that this comprehensive enforcement program will reduce truck and bus accidents significantly.

The Commercial Driver's License Program contained in the 1986 Act will require a person to pass written and driving tests before being issued a license by a state to operate a commercial motor vehicle. It will prohibit an operator of a commercial motor vehicle from having more than one license. The potential positive effects on the safety of the traveling public as a result of the new license program are as far reaching as any initiative the Department has undertaken in many years.

On August 8, 1986, we issued an ANPRM (51 FR 27567) requesting comment on consideration of national driver license standards for a classified commercial motor vehicle operator's license. We also requested comment on the possibility of requiring that a driver have only a single license and a single driving record. Comment was also requested on the feasibility, scope, and practical implementation of such a program. With the advent of the Commercial Motor Vehicle Safety Act, we now have explicit authority to expedite this rulemaking.

To date, we have developed implementation plans needed to meet the Act's deadlines and have started our work on many of the provisions. We are forming a DOT Coordination Group composed of senior staff from the FHWA, the National Highway Traffic Safety Administration (NHTSA), and the Office of the Secretary. This group will resolve the critical policy issues that emerge during implementation and provide a forum for DOT offices so that we can meet the Congressional deadlines. Implementing the Program offers special challenges. However, we expect that we will successfully implement the program on time. Our preliminary plans include the following activities:

1. We will establish minimum Federal testing and driver licensing standards that correspond with the different classes of commercial vehicles.
2. We will establish a unique identifier to be used by the states that is a valid, reliable indicator for verifying the identity of an individual and recognizing his identity when searching the national clearinghouse for the records of other licensed drivers and the disqualification records.
3. We will take full advantage of the latest technologies for the unique identification of individuals and for telecommunications. We plan to enter into an agreement with some non-Federal entity to carry out the clearinghouse function. The clearinghouse will need to be linked with state information systems for timely responses to inquiries about the identity of drivers and their licensing and driving record status.
4. We will actively seek the participation of the states, the motor carrier industry, and commercial vehicle drivers in meeting our joint responsibilities under the law.
5. During the next 3 years, we will use the Supplemental Grants made available in the 1986 Act to fund selected state pilot projects to expand on existing state licensing activities. This will enable us to gain early practical experience in testing procedures and the licensing program administration. The results of these pilot projects may be incorporated into other implementation efforts, including the minimum Federal standards and the clearinghouse.
6. We will involve the public and industry through the rulemaking notice and comment process, and through public meetings. We will also work with established Departmental advisory committees, where possible, to seek assistance on our implementation activities.

In closing, I must mention the need for the new Congress to pass new highway and highway safety authorization legislation. As you are aware, states are deferring many needed construction projects until Federal-aid highway funds are available. Further delay could also jeopardize the implementation of the Commercial Driver's License Program. Portions of NHTSA Section 402 funds are earmarked for two key activities under the newly passed legislation—(1) development of the clearinghouse and (2) supplemental grants to the states. It is important that the authorization of these funds be addressed early by the new Congress. When the new Congress convenes, I encourage the members to act quickly on reauthorization to allow the Department and the states to continue carrying out our important responsibilities in meeting our Nation's highway transportation needs.

This concludes my prepared statement. I would be pleased to answer any questions or provide additional material for the record to clarify or amplify our efforts to implement the requirements of the Motor Carrier Safety Act of 1984 and the Commercial Motor Vehicle Safety Act of 1986.

The CHAIRMAN. Next we will have a panel consisting of Lana Batts, American Trucking Association; R.V. Durham, International Brotherhood of Teamsters; and K. Michael O'Connell, Owners-Operators & Independent Drivers Association of America.

Ms. Batts, please proceed.

## STATEMENTS OF LANA R. BATTS, VICE PRESIDENT OF POLICY, AMERICAN TRUCKING ASSOCIATIONS, INC.; R.V. DURHAM, DIRECTOR OF HEALTH AND SAFETY, INTERNATIONAL BROTHERHOOD OF TEAMSTERS; AND K. MICHAEL O'CONNELL, COUNSEL, OWNERS-OPERATORS & INDEPENDENT DRIVERS ASSOCIATION OF AMERICA

Ms. BATTS. Good afternoon.

Mr. Chairman, Mr. Donohue apologizes that he is not able to be here today and has asked me to make this statement on his behalf.

As you know, the American Trucking Association has 4,000 individual trucking members and through its 51 State associations and its 11 affiliated conferences represents additional thousands of motor carriers.

All of these carriers are vitally concerned about truck safety. They and their drivers conduct their business in a professional manner for their own safety and for the safety of those with whom they share the highway.

ATA is committed to improving truck safety. In the past year, ATA has supported the Motor Carrier Safety Assistance Program. We have continued to promote a comprehensive driver training program, which is now being utilized by 700 companies with over 100,000 drivers.

We have initiated a cooperative program to educate shippers of carrier safety responsibilities. And we have developed many new services and materials to assist motor carrier safety efforts.

Our commitment to safety continues. Just yesterday, ATA announced its 1987 representatives for America's road team. One of the best drivers in the country comes from Missouri.

They will represent the trucking industry and help communicate our interest and our commitment to truck safety.

Also, ATA initiated a Washington, DC, Beltway Safety Program yesterday. We plan to extend it to other major cities where traffic safety is also a problem.

In addition, experienced professionals will patrol the beltway to observe and report unsafe driving.

ATA also just released a new pamphlet entitled "How to Drive the Washington Beltway." It contains information on how to navigate the beltway along with a number of commonsense safety tips that come from professional truckdrivers.

We also are going to continue our beltway hotline for motorists to report unsafe actions.

A discussion of the Capital Beltway brings me to another subject which gravely concerns us, and that is the subject of the exemption of trucks operating in commercial zones from safety requirements.

The Washington metropolitan area is the victim of one of the most flagrant loopholes in truck safety regulations—a legal anachronism known as the commercial zone exemption.

The Capital Beltway is wholly within the commercial zone of Washington, DC. Because of this, trucks making local deliveries can do so legally with vehicles which do not meet Federal safety requirements and with drivers who need not be properly qualified.

There are thousands of accidents involving these local trucks and drivers which we believe can be reduced by eliminating the commercial zone exemption.

We have twice asked DOT to end the commercial zone exemption as it applies to the physical requirements for the drivers most recently in 1985. We will continue our efforts to pursue this loophole.

ATA also fully supports the Commercial Vehicle Safety Act.

I want to thank you personally and that of the committee, for your interest and dedication to safety. We look forward to working with you in the years ahead to improve truck safety.

When the commercial driver's license is implemented, it will assure that commercial drivers have one license, one record, and that we'll get the problem drivers off the road. And we can be assured that the individuals who are driving the trucks on our Nation's highways are qualified.

Unfortunately, we foresee efforts by some to exempt certain types of operations and classes of drivers from the provisions of the act. We urge DOT and the States to resist these efforts.

This act must not be compromised.

In addition, ATA strongly supports the DOT Safety Fitness Program, mandated by Congress in 1984, to discipline problem carriers. All carriers with inadequate safety programs and poor records of compliance need to be identified as quickly as possible and appropriate action taken.

We urge DOT to survey all carriers at once, regardless of the commodity hauled, to determine those which appear to have inadequate safety programs and should be investigated first.

I also want to express the industry's strong support for continuation of the 55-mile-an-hour speed limit. A change in the speed limit would adversely affect public safety and trucking industry operating costs. Carriers have positioned terminals at distances appropriate for compliance with the speed limit, and the hours of service regulations. They "spec" their vehicles to run at 55. We firmly believe that 55 saves lives, prevents injuries, reduces wear and tear on our equipment, and it saves fuel.

In addition, the safe transportation of hazardous materials is plagued by a proliferation of restrictions which do little to improve safety. Congress needs to revise the Hazardous Materials Transportation Act to, one, require stronger Federal leadership; two, develop national uniform regulations; and three, establish Federal routing guidelines.

The registration and funding of a program is needed to support the States and the local emergency response activities, and to eliminate the multiplicity of fees among the States and localities.

Mr. Chairman, as you know, the motor carrier industry is vital to our Nation's economy. Increasing pressure for safe, efficient truck service has resulted in the need for a Motor Carrier Administration.

Such an administration will provide the leadership, the direction, and the management needed to assure the business community and the American public that its truck transportation will meet the needs of today, tomorrow, and the next century.

The trucking industry is committed to making our trucks, our drivers, and our companies safer than ever before. We have backed up that commitment with vital, substantive, and effective safety programs. We need a similar commitment of effective truck safety controls by all levels of government, and we need it now.

Thank you.

[The statement follows:]

## Statement of the American Trucking Association

### EXECUTIVE SUMMARY

The American Trucking Association is committed to improving truck safety. Our support goes beyond simple lip service; it is based upon a deep seated belief that the industry simply cannot progress and meet the demands of the 1990's unless we have safe truck operations.

ATA is working to reverse an alarming trend in truck safety:

truck accidents reported to the Bureau of Motor Carrier Safety increased 16.5 percent in 1984. That is the largest increase since 1972. Preliminary information indicates another six percent increase in 1985;

trucks placed out of service by Federal and State inspectors for serious defects increased from 23 percent in 1984 to 41 percent at a national truck inspection in September 1985;

the percentage of motor carriers with unsatisfactory safety ratings is highest among those that have recently received operating authority from the Interstate Commerce Commission;

ATA has initiated a number of new safety programs and continues to support government efforts to improve truck safety. ATA safety activities have focused on the driver, the equipment and the company. ATA has:

The driver:

taken a leadership role in supporting the Commercial Motor Vehicle Safety Act of 1986;

developed a comprehensive industry driver; training program, Coaching the Professional Truck Driver;

established a broad based driver image program, America's Road Team, to improve driver professionalism;

The vehicle:

supported the Surface Transportation Act of 1982 which established a comprehensive roadside inspection program and The Motor Carrier Safety Act of 1984;

supported the Commercial Vehicle Safety Alliance;

The company:

urged the development of a motor carrier safety fitness determination program;

fostered improved cooperation between shipper groups and ATA to improve truck safety;

supported the addition of 150 new federal safety inspectors;

developed new services and materials to assist motor carriers' safety efforts.

ATA is also establishing a Washington, DC capital beltway safety patrol. Experienced safety personnel will patrol the beltway to:

observe and report acts of unsafe or reckless driving by both trucks and cars;
inform police about dangerous situations and accidents;
work to improve the language used over the CB radio; and
ensure that CB's are used for the purpose for which they are intended.

A new brochure, "How to Drive on the Washington Beltway", also has been developed to provide safe driving advice to motorists and information about potential problem areas on the beltway and how to navigate them. The Beltway Road Patrol and pamphlet will reinforce the current ATA Beltway Hotline that takes calls from motorists about unsafe and discourteous truck driving.

The Washington program will be a model for other metropolitan acrea around the country. It will result in improved highway safety.

ATA is also beginning a bold new research program that will lead to improvements in truck safety. A National Research Symposium is planned for March 16 and 17, 1987, to develop a detailed agenda for truck related research with an emphasis on safety.

These efforts are important, but more needs to be done. ATA recommends the following actions:

*Implement the Commercial Vehicle Safety Act.*—The Commercial Motor Vehicle Safety Act of 1986 must be implemented as soon as possible. The Act will assure that commercial vehicle drivers have one license and one record and that individuals are qualified to be licensed as commercial drivers. It will get the problem drivers off the road.

*Establish a Motor Carrier Administration To Enhance Safety.*—A Motor Carrier Administration must be established to provide a single agency to coordinate and manage truck issues and programs. The recent reorganization of the motor carrier function in the Federal Highway Administration only serves to highlight the need for a Motor Carrier Administration that can provide leadership and management for the trucking industry.

*Preserve the 55 Mile Per Hour Speed Limit.*—The 55 mile per hour National Speed Limit should be maintained. It saves lives, reduces the severity of injuries and saves fuel.

*Develop a Consistent Hazardous Materials Regulatory Program.*—There must be a program to assure the safe transportation of hazardous materials based on a uniform and consistent set of regulations.

*Establish an Effective Carrier Safety Fitness Program.*—An effective, equitable motor carrier safety fitness determination program is needed to remove unsafe motor carriers from the industry just as the commercial driver license will get unsafe drivers off the road.

*Provide For Reasonable Access For Commercial Vehicles.*—Action must be taken to provide for reasonable access to service points for trucks, as authorized in the Surface Transportation Assistance Act of 1982, while at the same time recognizing legitimate safety concerns.

*Develop an Identification System for Brake Components.*—The industry desperately needs an effective program for identification of brake linings and valves and a means of assuring compatibility between brake systems and all types and ages of tractors and trailers.

*Amend the Federal Motor Carrier Safety Regulations.*—The Federal Motor Carrier Safety Regulations must be amended to disqualify drivers based on a number of less serious moving violations and to require drivers operating in commercial zones to meet physical requirements.

*Establish an Annual Vehicle Inspection Program.*—There must be a regulatory program for annual vehicle inspection, as mandated by the Motor Carrier Safety Act of 1984, that includes self inspection by motor carriers, a wide choice of inspection facilities, and suitable "on-board" record of inspection.

*Require That All Commercial Vehicles Be Identified.*—There should be a requirement that the names and addresses of the owners appear on commercial vehicles to assure easy identification for all motorists who encounter unsafe truck operations and wish to report them.

*Improve Truck Safety Research and Accident Data.*—There must be improvement in programs to develop and analyze truck accident data so that the success of safety initiatives can be effectively monitored and to determine further action that must be taken to reduce accidents.

While some of these actions may seem impossible in today's climate of Federal deficits and reduced Federal funding for many worthwhile programs, they are achievable if government and industry act together. To do otherwise would mean that needless highway deaths, injury and property destruction will continue.

## I.—INTRODUCTION

In am Thomas J. Donohue, President and Chief Executive Officer of the American Trucking Associations, Inc. (ATA). On behalf of ATA, I welcome the opportunity to address the important issue of truck safety which is of such vital concern to the public and to motor carriers. I submit this statement on behalf of ATA.

ATA is the national trade association of the trucking industry. Through its 51 affiliated trucking associations located in every state and the District of Columbia, 11 affiliated conferences, and thousands of individual motor carriers, ATA represents every type and class of motor carrier in the country: for-hire and private; regulated and exempt.

The trucking industry is composed of more than 260,000 American firms, and accounts for 77 percent of all freight transportation revenues in this country. The trucking industry employs 7.4 million Americans and generates annual revenues in excess of $200 billion.

The public and the American economy depend heavily on truck transportation to provide the goods, services, and materials that move America. The essentiality of the trucking industry is illustrated by the fact that business considers access to trucking to be the second most important factor in deciding where to locate a new plant, ranking behind the cost of property. It is clear that practical business decisions are made with the confidence that truck transportation will be available when needed.

Safe motor carrier operations make good business sense. A sound safety program results in improved efficiency and productivity, reduces insurance claims and premiums, saves fuel, and fosters a positive image of the trucking industry.

The trucking industry continues to have an outstanding safety record, despite media coverage that focuses on the spectacular accidents and accentuates the nagative. Each year commercial trucks travel more than 140 billion miles with an overall safety record that is almost twice as good as that for automobiles. Trucks have a frequency of 10.4 accidents per million miles compared to 19.4 for passenger cars. But good statistics aren't enough. The public expects, and demands, an even better safety record and safety performance. So does the trucking industry.

To paraphase and old saying, "Safety begins at home." If the motor carrier industry is to be taken seriously in its quest for improved highway safety, it must establish an all-encompassing safety program.

As part of our initiative to improve highway safety, ATA will inaugurate a Washington, D.C. Beltway safety program. It is a program that we plan to extend to other major cities where traffic safety is also a problem. Experienced safety professionals will patrol the Beltway in ATA-sponsored automobiles. This program will be in place by February 1, 1987.

The will have a mandate to observe and report acts of unsafe or reckless driving by both trucks and cars. They will inform police about dangerous situations and accidents. They will work to improve the language used over the CB radio, to ensure that CB's are used for the purpose for which they are intended.

They will also report back to trucking companies to commend safe drivers and to criticize bad truck drivers.

ATA has just released a new pamphlet entitled: "How to Drive on the Washington Beltway—Advice from Professional Truck Drivers." It contains a map of the Beltway's trickiest intersections with some advice on how to navigate them, along with a number of common-sense safety tips gathered from professional truck drivers.

The pamplet is directed to motorists, especially those who find Beltway driving frustrating or frightening.

It will be distributed through driver education classes, at shopping malls, at public highway facilities, and by companies in the area to their patrons.

This new initiative will be a supplement to the current ATA Beltway Hotline for motories to report unsafe and discourteous actions by truck drivers.

Unfortunately, more needs to be done than can be accomplished solely by the industry. Government, too, must accept its responsibility for improving highway and truck safety.

## II.—COMMERICAL VEHICLE DRIVER LICENSING IS ESSENTIAL TO SAFETY

I want to thank this Committee for its leadership in enacting the Commerical Motor Vehicle Safety Act of 1986 (CMVSA). On behalf of ATA, I want to also thank you, Mr. Chairman, for your personal interest and dedication to this important legislation. The CMVSA should make a significant contribution to improving truck safety.

The effectiveness and timely implementation of the provisions of the Act depend on the commitment and cooperative efforts of the Department of Transportation, the state motor vehicle administrators, the trucking industry and others. ATA was an active proponent of this legislation and we intend to vigorously support its implementation.

There appears to be a genuine effort by the Department of Transportation to move the program forward in an expeditious manner, and a commitment to meet the statutory deadlines. We have been impressed with DOT's initial planning for the program's implementation. However, we also recognize that program planning must translate to program implementation. Congress needs to ensure that DOT has the necessary resources to implement the program. Improving the commerical driver license and record information program was a priority in this Congress; now it must become a priority at the Department of Transportation.

The CMVSA will provide the basis for a comprehensive, effective driver licensing and record information program. We support the broad application of the CMVSA to all drivers operating commercial vehicles in inter or intrastate commerce with gross vehicle weight rating (GVWR) of 26,001 pounds or greater and to drivers transporting hazardous materials.

*DOT should resist any efforts to exempt any type or class of driver who operates heavy commercial vehicles from the licensing and record information program.*—The safe operation of a heavy truck requires a degree of skill that must be obtained through experience or training. Testing license applicants in a heavy truck to determine their proficiency in safely operating the vehicle is important to the effectiveness of the licensing program and to improved truck and highway safety.

While ATA is committed to the application of the licensing program to all drivers of heavy trucks we also recognize some potential pitfalls with the implementation of the Act that could utilize valuable resources without a commensurate safety benefit. DOT must be careful not to develop well intentioned paper requirements that are difficult to administer and which drain valuable resources.

The Secretary of Transportation has some discretion in implementing the Act ranging from the development of minimum standards for driving tests to authority to exempt certain drivers from the important licensing and record information program provided for in the legislation. DOT must use this authority wisely and strike a balance between appropriate utilization of limited resources and the urgent need to establish an effective commercial drivers license and record information program.

This can best be accomplished by:

Limiting license provisions to drivers of heavier vehicles, in the initial stages of the program;

Establishing minimum driving test standards for two classes of vehicles: heavy straight trucks and combination units;

Requiring a driving test for new license applicants only; and

Requiring drivers of vehicles placarded for hazardous materials regardless of vehicle weight to be included in the licensing program.

The license controls and standards should initially focus on drivers of heavy straight trucks and combination vehicles composed of tractors and trailers because they have the potential for causing the most damage. In 1984, there were 4,908 fatalities from accidents involving these vehicles. Of that number, 3,256 fatalities were to occupants of other vehicles. By comparison, there were only 248 fatalities in 1984, resulting from accidents involving medium size trucks, those in a weight range of 10,001 to 26,000 lbs. GVWR.

We estimate that there are 2.4 million drivers of heavy vehicles who would be subject to the license program. If the requirements of the Act are extended to drivers of all large vehicles, the number of drivers who would have to be specially tested and licensed would be more than twice that number. The new program won't work effectively for that number, at least not in its formative stages.

A system that is limited to testing drivers in heavy straight trucks and combination vehicles will result in less costs and less burdens on licensing agencies and greater program effectiveness. Standards that require a number of vehicle classes will create significant burdens on the state testing system.

Given the limited resources for the licensing program, the priority for road testing should be directed to the license applicants. The experienced problem drivers will be identified more effectively through the license information system.

The provisions of the CMVSA apply to drivers who transport hazardous materials. This would include individuals who transport very small quantities of hazardous materials often in the furtherance of their particular business, such as plumbing or air conditioning. Furthermore, people driving recreational vehicles that use propane fuel for cooking would be required to have commercial driver licenses. We know that is not the intent of Congress.

Again, the license control program should apply to those drivers who operate vehicles that pose the greatest risk to safety of the public. In the case of hazardous materials the applicability should be to those drivers whose vehicles carry hazardous materials in quantity to require placarding.

### III.—NEED FOR A MOTOR CARRIER ADMINISTRATION

The formation of a Motor Carrier Administration is needed to provide a qualified, single agency to deal effectively with all trucking issues.

For years motor carrier issues have been handled by several different agencies within DOT, to the disadvantage of the trucking industry and the public we serve. A Motor Carrier Administration will provide a single agency responsible for developing, implementing truck programs and managing truck issues.

In the 99th Congress both the House and the Senate introduced legislation, H.R. 3472 and S.1710, to provide for such an Administration. The General Accounting Office (GAO) was asked to analyze the cost impact of a Motor Carrier Administration and its report, released on August 13, 1986, supports the case for a Motor Carrier Administration. The GAO found that the additional recurring costs to DOT would be minimal, only $2.4 million annually. This is an amount equal to what DOT spends in just one hour. It is a small amount compared to the major benefits to be achieved by strengthening the Federal motor carrier program.

I urge this committee to support legislative efforts to establish a Motor Carrier Administration within DOT.

Recently, the DOT recognized the need to centralize many truck activities and reorganized the DOT motor carrier safety functions of the Bureau of Motor Carrier Safety into the Office of Motor Carriers under an Associate Administrator. Such a reorganization will improve DOT's ability to address truck issues, but it still leaves motor carriers in a subordinate position within the Department of Transportation rather than providing effective representation of the motor carrier industry's needs.

We believe a Motor Carrier Administration would better fulfill the statutory objectives of the DOT, with respect to truck safety and environmental protection, as well as technological development and consumer protection. A Motor Carrier Administration would provide for coordinated research and planning programs necessary to assure a productive and efficient motor carrier industry that can most effectively service the business and consumer needs of the dynamic American economy. A lack of coordination and thus inefficiency now exists.

Furthermore, effective Federal leadership and program management will also be necessary to implement the Commercial Motor Vehicle Safety Act of 1986. The legislation should result in significant improvements in truck safety. However, there must be a coordinated, efficient federal agency to serve as the focal point for the states, trucking industry and others for the implementation and management of the licensing program. Currently, it appears that implementation of the Commercial Driver's License Program rests with the Office of the Secretary, Office of Motor Carriers and the National Highway Traffic Safety Administration. Such diversity will cause delays, snafus, and bureaucratic turf battles.

The CMVSA also substantially increases the funding for the Motor Carrier Safety Assistance Program from $17 million authorized in FY86 to $50 million for FY87. The effective management and coordination of a $50 million, 48 State, commercial vehicle safety program will require the attention and priority within the Department of Transportation that only a Motor Carrier Administration can provide.

It is time for the creation of the long overdue Motor Carrier Administration to represent the transportation mode which carries the most traffic, pays the most taxes, travels the most miles, and employs the most people.

### IV.—THE NATIONAL 55 MPH SPEED LIMIT SHOULD BE MAINTAINED

The American Trucking Associations strongly supports continuation of the 55 mph speed limit. This issue is important to the industry because a change in the speed limit would adversely affect public safety, and industry operating costs. Moreover, carriers have positioned terminals at distances appropriate for the 55 mph limit, "speced" vehicles to run at that speed, and trained drivers to comply with the 55 mph speed limit.

We urge Congress to resist efforts to allow the states to increase the 55 mph speed limit.

ATA also vigorously supports a ban on the use of radar detectors in commercial vehicles. Radar detectors serve no other purpose than to allow users to violate speed limit laws. When vehicles operate at higher speeds, the potential for more accidents and greater severity of accidents increases. All highway users are subject to the consequences.

### V.—HAZADOUS MATERIALS

In recent years Congress has expended much time and energy on legislation designed to protect our citizens and our environment from the harmful effects of improper or irresponsible handling of hazardous materials in transportation. ATA also has placed a high priority on this issue and has testified on several occasions before this Committee and others in support of uniform national standards for transporting these materials, and training and licensing drivers who operate hazardous materials vehicles.

*It is imperative that Congress give consideration to the current proliferation of state and local restrictions on hazardous materials transportation.*—Legislation must be aimed at providing the highest level of safety while not placing unnecessary and unreasonable restrictions on the transportation of these materials (which include fuels, cleaners, solvents, and fertilizers) which are vital to our way of life and our national economy. Ironically, many of these restrictions do little to improve highway safety. In fact, in many instances just the opposite occurs.

The reauthorization of the Hazardous Materials Transportation Act must provide a mandate for the Department of Transportation to establish guidelines for state and local governments to follow in routing hazardous materials. The guidelines should include specific criteria in developing routing or time of day restrictions on hazardous materials shipments. Such legislation should:

preserve the rights of local governments who have the best "first hand" knowledge of local conditions;

assess such specific criteria in cooperation and conjunction with neighboring jurisdictions;

assure establishment of the safest plan.

Local ordinances or restrictions are often detrimental to overall safety when routes are prescribed which require trucks to travel on secondary highways, which require additional traffic maneuvering, increased mileage, and prolonged travel time. As a result there is an increased risk of an accident and public exposure. Time of day restrictions also increase the risk because delayed vehicles are exposed to incidents while parked in truck stops, rest areas, or at other locations. When the time restriction is past these vehicles, transporting all types of hazardous materials, move onto the highways in greater numbers and higher density, thus increasing the risk even further.

Federal routing guidelines should specify criteria essential to safety such as the nature of the materials being transported, traffic flows, accident statistics, population density, highway design, mileages involved, and emergency response capabilities of all affected jurisdictions. The guidelines should include procedures to resolve disputes among local jurisdictions or states. The procedures must include DOT involvement in the initial route planning process rather than after the fact as often occurs now through the "inconsistency ruling" process.

Legislation which mandates DOT to establish routing guidelines will promote safe transportation by prescribing restrictions based on careful consideration of facts. The current trend of many states and localities is to impose hazardous materials bans and restrictions which merely shift the risk to the "back yard" of neighbors. *Federally mandated guidelines will replace that trend with a uniform and practical approach to the routing issue.*

*A Registration Program for Hazardous Materials Should Be Established.*—ATA would also enthusiastically support a Federal registration plan for shippers and carriers of hazardous materials. Annual registration would provide information about the identity of those engaged in hazardous materials transportation, the nature and quantity of such materials in transportation, and the routes used for such transportation. The contingency planning of state and local governments to deal with emergencies would be enhanced by access to such data. Analysis of the data collected would also be beneficial to DOT.

The trucking industry would also support a Federal registration fee to be assessed equitably upon carriers and shippers of hazardous materials and the manufacturers of the containers in which the materials are shipped. Such fees would be made available to state and local governments for the purpose of funding emergency response training. A Federal fund consisting of such fees would assist state and local governments. At the same time, it would obviate the need for state and local jurisdictions to continue to tax carriers excessively and unendingly. The current unbridled imposition by state and local governments of hazardous material transportation fees on a shipment-by-shipment, truck-by-truck, and jurisdiction-by-jurisdiction basis must be ended. A programatic approach of Federal fees and a Federal fund to help resolve the state and local funding issue is needed.

*Drivers of Hazardous Materials Need to be Properly Trained.*—The Hazardous Materials Transportation Act now contains a training provision but, unfortunately, the current Federal regulation requiring hazardous materials training for drivers has been inadequate. ATA has petition the Department of Transportation for revision of the regulation to make the training requirement more specific.

Provisions of the CMVSA will limit drivers to a single license and mandate specific license endorsements for hazardous materials transportation.

The combination of improved training and licensing should eliminate present concern about the ability of drivers to operate their vehicles safely and to take proper action in the event of an emergency involving hazardous materials.

*Polygraph is a Useful Safety Tool.*—The trucking industry uses the polygraph in both pre-employment screening and to prevent cargo theft. On pre-employment screening, the facts clearly demonstrate that the polygraph is an effective toll for weeding out bad drivers before they have a chance to get behind the wheel of an 80,000 pound truck or transport hazardous materials.

### VI.—CERTIFICATION OF SAFETY FITNESS

One of the provisions of the Motor Carrier Safety Act of 1984 mandated safety fitness determinations for all motor carriers—both for-hire and private. ATA supports the principles contained in DOT's recently published Notice of Proposed Rulemaking to establish an effective and efficient safety fitness program.

In its rulemaking, DOT has proposed to distribute a questionnaire to all carriers who do not now have DOT-assigned safety ratings. ATA supports this process. We feel, however, that the questionnaire should be sent to *all* carriers at the same time, rather than at staggered times to carrier groups selected arbitrarily on the basis of type of commodities transported. All carriers with inadequate safety programs and poor records of compliance with regulatory requirements need to be identified as quickly as possible by DOT, rather than over a period of years. DOT's proposal would prevent or substantially delay such identification. If DOT distributes the questionnaires as planned, many carriers with poor records will continue to operate simply because they happen to be arbitrarily assigned to a lower priority carrier group.

Equally important, we are concerned that carriers will be deprived of their due process right under the safety fitness program proposed. There is no provision to allow carriers to administratively appeal improperly assigned ratings, or to demonstrate before a rating is made public, that timely corrective action has been taken to improve safety performance and compliance with safety regulations. As a result, many carriers stand to lose a substantial amount of business or to have their reputation tarnished before the DOT takes action and determines that a "satisfactory" rating is warranted. The industry's concerns are discussed in greater detail in the comments ATA filed in response to DOT's proposed rule. A copy of those comments is attached as Appendix B.

### VII.—FEDERAL LEADERSHIP CONCERNING TRUCK ROUTING AND ACCESS IS NEEDED

In 1982, Congress passed the highway designation and access provisions of the Surface Transportation Assistance Act ("STAA"). That legislation was intended to increase the trucking industry's productivity, without compromising safety. Congress authorized the use, on the Federal Interstates and DOT-designated Federal-aid primary highways, of longer and wider vehicles than currently permitted by a number of states, and required the states to provide "reasonable access" from those highways to terminals and facilities for food, fuel and rest, and points of loading and unloading for carriers of household goods.

In early 1984, the trucking industry appeared before this Committee to report that the productivity gains intended were not being realized, in part, because of the lack of uniform standards for access. At the same time, concerns were also expressed by the states regarding the safety of such vehicles on certain highways designated by DOT.

In response to those concerns, Congress amended the STAA by passing the Tandem Truck Safety Act, to insure that the productivity gains originally intended would finally be achieved, and at the same time, that states would have an effective mechanism by which they could petition the DOT to dedesignate highways for safety reasons.

It has been two years since the Tandem Truck Safety Act and four years since the STAA was passed, and the trucking industry is still yet to gain the full measure of its productivity gains. The public's safety is being compromised, as the trucking industry is being forced to put more trucks on the highways and drive more miles than would otherwise be necessary.

In large measure, this has been due to the unwillingness of the DOT to exert an effective degree of leadership. For example, DOT has yet to adopt final rules implementing the provisions of the Tandem Truck Safety Act. Rather than assisting the industry and states, or local governments, to achieve cordial and satisfactory resolutions based on fact rather than perception, DOT has essentially turned its back and left the parties to resolve their disputes as adversaries in the courts in Pennsylvania, Georgia, Florida, New York and California. Not only has industry, therefore, never fully realized its productivity gains, it also has been made to incur the additional and costly expense of litigation.

Recently, under the banner of safety, the Governor of Kentucky unilaterally banned the operation of all trucks on Interstates I-71, I-75 and I-471 near Cincinnati, except for making pickups or deliveries in Cincinnati. Truck accidents in Kentucky have since decreased by 23 percent. In the local Ohio communities through which the traffic has been diverted, however, accidents have since increased by 23 percent. Despite the clear intention of the Governor to export risk, and the loud protestations of the affected local Ohio communities and of industry, DOT presence has essentially been nonexistent.

The Tandem Truck Safety Act provided a mechanism to enable states to address their particular safety concerns while ensuring that the safety of the neighboring jurisdictions would not be jeopardized. The Kentucky ban affects STAA vehicles and amounts, in part, to a dedesignation of a highway. Despite this, DOT has chosen to disregard the safety procedures established by Congress and, more importantly, to ignore the safety issues being raised by the local Ohio communities.

*This is not leadership; nor is it responsible government. DOT needs to be actively involved.*—It needs to function as a mediator, bringing the parties together so that the necessary facts can be objectively looked at and rational solutions achieved without resorting to the courts. The present scheme has fostered distrust and frustration and certainly does not serve safety well.

### VIII.—HOURS OF SERVICE ISSUES

The trucking industry supports the hours of service regulations and the need for basic record-keeping requirements for driver control and for compliance. Considering the limited resources available in the past, enforcement of the hours of service has been as effective as could be expected. However, we expect these enforcement activities will increase with increased funding for the Motor Carrier Safety Assistance Program. Furthermore, on board information systems offer some promise for more effective monitoring of the drivers' hours of service.

*Increased Enforcement Through MCSAP.*—Compliance with hours of service is monitored through the Motor Carrier Safety Assistance Program at roadside inspections, as well as in audits of the carrier's records in terminals and offices. As additional roadside inspections are conducted by the states, monitoring of hours of service has increased and there have been more prosecutions of drivers for hours of service violations. Unlike federal safety investigators, state officials conducting roadside inspections can require drivers to post collateral for violations before they are allowed to proceed from the inspection site. When a driver violates the hours of service regulations in spite of the best efforts of carrier management to assure compliance, it is appropriate that the driver, rather than the motor carrier, be penalized.

*Utilization of on-Board Information Systems.*—There are a number of software programs in use to monitor drivers' hours of service and to determine how many hours a driver may legally work the next day. Some of these programs are available from software vendors. Others have been developed by motor carriers to meet their particular needs and integrate them with other data processing operations.

With the exception of a single test program authorized by BMCS involving a major private carrier, there is no use of on-board recording technology to monitor hours of service in lieu of the currently-prescribed Drivers Record of Duty Status (Driver's Log). This test program has been successful, and the Bureau will consider authorizing additional programs. BMCS has had preliminary inquiries from a number of sources, but no specific requests to institute a program.

We believe that there are a number of possible inhibiting factors: Format; Roadside inspections; Carrier's type of operation; and Cost.

The Office of Motor Carriers has taken the position that the output of the recorder must be essentially in the format of the record that is available from the conventional Driver's Log, as is done in the current test program. Providing this feature requires special design of the recorder and associated hardware and may unduly increase the cost and complexity of the system. The use of on-board recorders for the sole purpose of monitoring hours of service is not generally regarded as cost-effective.

There must be a capability to check the output of the recorder at a roadside inspection. While the requirement can be met, it undoubtedly increases the cost and complexity of producing a recorder which is adequately tamper-resistant.

Equipment used to monitor drivers' hours of service provides varying benefits to carriers depending on their type of operation. Carriers with relay operations in which drivers operate from one company facility to another within the 10 hour driver time limit specified by Federal Safety Regulations have reasonably effective control and little need for such equipment.

The high costs of purchasing recording equipment and installation and maintenance costs dictate that on-board records must be capable of performing a number of different functions such as monitoring the driver's time, the speed of the vehicle, fuel consumed, the length of time the vehicle was stopped, unnecessary engine idling, and the like. Attempting to generate this information and produce an hours of service record resembling the Driver's Log, may well make the equipment too costly for many motor carriers.

The Office of Motor Carriers should conduct additional research and consider granting authority to use recorders whether or not the output of the recorder resembles the present driver's log.

Consideration must be given to fostering the development of equipment which will record a broad spectrum of operating conditions, including, but not limited to, the hours of service of the driver. Recognition must also be given to the possibility that use of recorders may not be equally effective in all types of truck operations.

## IX.—BRAKES

Brakes are the most important safety equipment on trucks. All brakes must be operational and well maintained. We support and applaud the provisions of CMVSA to require front brakes on all trucks. Under CMVSA DOT has to require all trucks to have operative brakes on all wheels 90 days after enactment.We believe this is an unreasonable time period. DOT has the authority to delay the effective date until January 25, 1988. It is imperative that the Department of Transportation grant this extension so that brake manufacturers can meet market demands for the component parts and for vehicles not equipped with front brakes to be fitted. The additional year is also necessary to train drivers to have confidence in front brakes.

*The Influence of the Drivers' Perception of the Problem.*—The largest single factor contributing to the disablement of front brakes on today's trucks is driver mistrust. Fleets using front brakes must continually inspect them to assure driver tampering has not resulted in their being ineffective.

NHTSA tests show trucks with front brakes to be safer. However, such tests do not completely duplicate the real world of everyday use. Such programs cannot encompass all possible conditions, nor do they examine the way in which competent drivers actually deal with slippery road conditions and the effect driving in the "real world", instead of on a test track, has on their perceptions. Additionally, most front brakes now being installed by manufacturers are low-torque which cures many of the past problems that led to the perceptions drivers have today. A narrow focus on redesigning brake systems to achieve shorter high-speed panic stops will require front brakes that are significantly larger and more aggressive. Such high-torque front brakes will exacerbate the problems of "grabby" brakes, or side pull, at low application pressures and tempt drivers to continue to render front brakes inoperative.

Any move toward aggressive front brakes must consider driver concerns. We must look into why so many drivers risk having their equipment put out-of-service for having disabled front brakes. It certainly makes no sense to assume the brakes are being disconnected to make the truck less safe. We estimate that well over 90 percent of all truck brake applications are non-panic and made at pressures of less than one-third the capacity of the system (40 vs. 120 psi). Here control, not the shortest possible stop, is the primary concern. Aggressive front brakes, with their attendant problems, create control problems.

On slippery roads, particularly on ice and snow, drivers do not approach curves at ever increasing test speeds to see what will happen. They greatly reduce their speed. It is under these real world, low speed conditions that front brake-induced side pull, caused by a number of factors from minor differences in adjustment to moisture on linings, is strongly felt. This side pull requires more driver maneuvering to retain steering control at the very time control is difficult to maintain with the best of equipment.

Aggressive brakes, even lightly applied, can lock up and cause directional instability if a truck encounters a patch of ice.

Some carriers have found a way to utilize more aggressive front brakes while retaining a satisfactory degree of driver acceptance. They have done this by specifying front brake limiting valves for their equipment. Such valves automatically reduce air pressure to the front brakes under low pressure applications where most maneuvering is done. This technology does provide for delivery of full air pressure when the driver desires maximum braking capability and makes a full application.

Along with changes in the brake system, there must be an educational effort to convince drivers of the importance of their front brakes so they will not tamper with them. The Department of Transportation is to be commended for conducting a front brake demonstration September 19, 1986 at the Transportation Research Center in Ohio. We believe valuable driver training data was generated there and urge DOT to make it available to the industry as soon as possible, so carriers may share it with their drivers. This material can be used to help convince drivers not to disable front brakes.

Disengaged front brakes, however, should not be considered the only, or even the most, serious truck brake issue.

There are three other shortcomings with the current truck brake system which need to be corrected: Brake linings; Brake Valves; and Compatibility.

Given the nature of the existing rating system, and the fact that the present method of marking linings is not permanent, it is impossible to determine whether replacement linings will insure that a vehicle's braking capability will be maintained. Unfortunately there is neither a reliable test for rating the friction of linings nor an effective marking method to provide an identification from a worn lining for use in selecting a suitable replacement. Linings with the same friction rating, as measured by today's technology, can have large differences in actual friction levels resulting in up to a 20 percent variation in a vehicle's braking performance.

Equally important is the replacement of malfunctioning brake valves with brake valves having performance characteristics matched to the original. As with brake linings, there are no standards for rating and identifying brake valve performance. DOT needs to join industry in a program to rate and identify brake valves. Although many valves have the same model numbers and may look exactly alike, they often have different internal springs which dramatically change their performance.

Immediate attention also needs to be given to brake timing and tractor-trailer compatibility. DOT needs to work closely with the motor carrier industry to establish a program to resolve the problems of timing and compatability. For example, it is not uncommon for new equipment trailer brakes to engage up to four-tenths of a second after the tracter's brakes, which can increase both the stopping distince and the risk of jackknifing.

A major cause of this problem was created by Federal Motor Vehicle Safety Standard (FMVSS) 121, which established separate standards for tractors, trailers, and dollies without regard to the fact that these units would have to be operated together and in combination with pre-121 tractors, trailers, and dollies.

As early as may 1973, ATA presented NHTSA with documentation from tests and road demonstrations proving that a serious compatibility problem exists. This is still the case.

When the compatibility problem is coupled with the uncertainty of brake lining performance and the lack of value performance standards, it is little wonder that brake-related accidents occur.

*DOT Needs to Establish Better Priorities Concerning Brakes.*—ATA is very concerned about the NHTSA Near Term Functional Research Program on truck brakes. While DOT has helded identify the three problems just discussed, it has failed to establish priorities for their correction. While DOT has committed substantial resources to investigate new concepts like antilock braking, which ATA supports, little or nothing has been allocated to the basic problems,.

ATA is convinced, based on decades of testing for reliability and motor carrier operating experiences, that the problems we have outlined must be rectified before new, more complex braking systems are considered. No advance hardware can change the fact that the friction of a brake lining against a brake drum (or pad against a rotor) being actuated by air pressure controlled by air valves is what stops trucks. The three funamental problems—the need for an effective program concerning brake lining performance ratings and identification, brake value performance and identification, and vehicle brake timing and tractor-trailer compatibility—are the most serious issues involving truck brakes today. Having been identified as such, it would be irresponsible of DOT to ignore the need for their correction while devoting greater resources and attention to other brake matters.

### X.—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

The Motor Carrier Safety Act of 1984 requires the Department of Transportation to review and revise its Federal Motor Carrier Safety Regulations. DOT has issued a number of proposals and ATA has provided industry comments. The following is a brief summary of matters pending before DOT.

*Driver Disqualification.*—DOT should be commend for its response to ATA's petition to amend the regulations governing drug usage. ATA had asked DOT to provide for disqualification of drivers on the basis of drug *use*, rather than drug dependency. ATA has urged DOT to further strengthen its action by establishing a specific provision for disqualification of drivers who exhibit evidence of drug use. ATA has recommended that this disqualification period be for 30 days if the driver is in a drug rehabilitation program, and that it be 90 days if the driver is not in a program.

In another recent action, ATA supported a DOT proposal to increase the disqualification periods of 3 and 5 years for criminal misconduct by drivers transporting hazardous materials.

The disqualification provisions would apply to the following offenses occurring when driving a commercial vehicle: Intoxicated; under the influence of certain drugs; commission of a felony; and leaving the scene of an accident resulting in death or injury.

The level of irresponsibility indicated by the commission of these violations, coupled with the potential seriousness of accidents involving the cargos warrants the penalties.

ATA also urged DOT to amend the Federal Motor Carrier Safety Regulations to disqualify drivers who accumulate a series of convictions for lesser violations while operating a commercial vehicle. The Federal Motor Carrier Safety Regulations require motor carriers to periodically review driver records to determine those drivers whose records indicate a disregard for safety. In practice, it is often difficult, if not impossible, to sustain a discharge of a driver for an unsatificatory record because the regulations do not contain criteria to support the carrier's action. ATA has urged DOT to require a 90-day disqualification for accumulation of three convictions of moving violations in 12 months.

*Physical Qualifications for Local Drivers.*—We have also urged the Department of Transportation to delete the "commercial zone" exemption for driver physical qualifications. With the advent of many miles of high-speed beltways, expressways and arterial streets, drivers operating in metropolitan areas are subject to many of the same driving hazards as over the road operators and should meet the same standards of physical fitness.

*Examination of the Federal Motor Carrier Safety Regulations.*— We have urged DOT for a number of years to require a pass-fail grade for the exam as a important consideration in qualifying drivers. ATA supported a pass-fail written examination in the Commercial Motor Vehicle Safety Act of the 1986. Provisions in the Act requiring a passing grade on written tests as a condition of license issue including testing knowledge of the Federal Motor Carrier Safety Regulations will enhance truck safety. When the written test provisions of the Act are implemented requiring a passing grade as a condition of obtaining a commercial drivers license, there will not be a need for a no-grade test requirement as part of the Federal Motor Carrier Safety Regulations.

### XI.—VEHICLE CONCERNS

*Roadside Vehicle Inspection.*—ATA has supported the Motor Carrier Safety Assistance Program since its inception, as a means of increasing the capability to detect unsafe vehicles and to place out of service those that are in such poor condition as to make continued operation imminently hazardous. We support the increased levels of funding provided for in the Commercial Motor Vehicle Safety Act of 1986.

ATA supports the generally-accepted practice of actually inspecting those vehicles which by a "sight and sound" initial screening give evidence that they are the most likely to have defects. This practice assures maximum productivity of the program by focusing attention on the vehicle most likely to be in need of it. We recognize that tabulations of the results of such inspections indicate an inordinately high percentage of vehicles with serious defects which cause them to be placed out of service. While there is a tendency on the part of many people and the media to believe that this shows a high proportion of all trucks on the road are unsafe, this is not the case. Rather, it is a reflection of the efficacy of the initial screening procedure and the resultant focus of attention on the vehicles which are indeed in bad condition.

And, as important as vehicle condition is to safety, it is also important to realize that the accident data of the U.S. Department of Transportation have consistently shown that mechanical defects are a causative factor in less than 5% of reported accidents.

*Vehicle Inspection.*—ATA also supports an inspection system which would require that specified safety items covered in 49 CFR Parts 393 and 396 be checked annually. DOT is considering procedures to require an annual inspection. ATA has urged BMCS to provide for:

Self-inspection by motor carriers having proper facilities and qualified personnel;

A wide choice of inspection facilities including branches or dealerships of original equipment manufacturers; independent shops, truck stops, etc.; and

Evidence of the inspection and the date it was performed in the form of a sticker, or a suitable "on board" record.

*Vehicle Identification.*—The federal government should require permanent identification of the owner, or long-term lessee, of every commercial vehicle operating in interstate commerce. It should also establish a strong program to get every state to adopt and enforce a similar vehicle identification requirement for intrastate motor carriers.

Identification on vehicles is important for safety. Truck drivers who cannot be readily identified because their vehicles are not marked are more likely to engage in unsafe practices than those who can be identified and reported for their manner of driving.

ATA has a "hotline" to receive complaints from the public about unsafe truck drivers. ATA relays those complaints to the owners of trucks, but is often frustrated when the public complains about a vehicle that has no identification. We cannot make contact with the owner to report the complaint if we cannot identify the vehicle.

ATA has petitioned the Department of Transportation for such identification requirements and we have urged our state affiliates to seek similar requirements for intrastate motor carriers.

### XII.—MOTOR CARRIER SHIPPER COOPERATIVE EFFORTS FOR SAFETY

In my earlier testimony to the Committee on July 15, I urged legislation to impose a penalty on shippers and agents who encourage drivers and carriers to violate speed laws, hours of service regulations and size and weight limits. I urged that these people should be subject to the same major penalties as can now be imposed on drivers and motor carriers for the same violations. Since then the American Trucking Associations (ATA) and the National Industrial Transportation League (NITL) have begun to develop a cooperative educational program to address the safety problems which can result from unreasonable service demands by shippers.

The educational effort will address problems of speeding, overloading, hours of service violations, and improper loading practices. Both groups agreed that education is the key to solving these problems, since, in many instances, they result from a lack of understanding by shippers of limitations on motor carrier operations, rather than a willful intent to violate current safety requirements.

The initial approach of this program will involve the dissemination of materials to carriers and shippers to improve their awareness of the laws and regulations affecting highway safety. Both groups will meet on a regular basis to develop the materials, assure their proper dissemination, and measure their effectiveness. We will keep this Committee informed about our activity and our progress.

### XIII.—BASIC SAFETY RESEARCH MUST BE UNDERTAKEN

*Research Needs.*—To ensure our time and money is wisely invested, we are launching a major program of trucking-related research emphasizing safety. This effort will begin on March 16 and 17 when the ATA Foundation hosts a National Symposium on research here in Washington, D.C. The Symposium will bring industry executives together with government officials and researchers to focus on long-term public policy issues meriting investigation. Safety will receive serious attention. The compendium of this symposium will provide our industry with a detailed agenda for future truck research.

Building on those findings, ATA's Maintenance Council will hold a symposium on user's perspectives concerning the design and maintenace of future equipment with respect to vehicle operations, drivers, government regulation and most importantly improving the safety of those vehicles. By communicating user concerns, Tommorrow's Truck Symposium will enhance the ability of equipment manufacturers to produce safe and efficient vehicles.

*Data Needs.*—For too many years the Federal and state governments, and industry have been making do with "available" accident data. We lack a system which is:

Accurate—Data elements, like accident characteristics, must be true measures of what has actually occurred rather than estimates or extrapolations.

Detailed—Data bases must provide the ability to categorize accidents by important vehicle configuration characteristics and types of contributing factors.

Uniform—Definitions and reporting formats for exposure data must be the same no matter who is reporting or where they are reporting from.

Matchable—Exposure data and accident data must be collected together to obtain truly indicative accident rates.

In spite of substantial expenditures and significants efforts, we still lack systems which meet all of these criteria.

In order to monitor the status of truck accident rates, statistics, and trends, the trucking industry and other highway user groups currently utilize several data bases for information. Unfortunately, these do not provide the uniform accident and exposure data needed to effectively answer important questions, establish valid rates, or understand causal factors, which in turn help safety professionals understand what is needed for corrective actions. The American Trucking Association and Highway Users Federation have asked the Transportation Research Board to examine the issue of truck accident data. Additional information concerning safety data needs is contained in Appendix C.

## XIV.—CONCLUSION

In the past year, there has been extensive activity by Department of Transportation to carry out the mandate of the Motor Carrier Safety Act of 1984. Much has been done, but it is only a small part of what needs to be accomplished. An aggressive, thoughtful and well managed program to implement the Commercial Vehicle Safety Act of 1986 will result in significant improvements in truck safety and complement the Motor Carrier Safety Act of 1984.

But DOT cannot do the job alone. During the coming year, motor carriers will spend hundreds of millions of dollars on truck safety. ATA alone will spend $5 million to provide the leadership that is needed to improve truck safety and the image of truck drivers.

We will seek to work cooperatively with the Department of Transportation on programs to reduce accidents and save lives. The trucking industry and the government have a mutual interest and concern for truck safety that transcends any other problems and conflicts such as deregulation and taxes.

The **CHAIRMAN**. Thank you, Ms. Batts.

Mr. Durham.

Mr. **DURHAM**. Good afternoon, Senator.

My name is R.V. Durham, and I am representing our general president, Mr. Presser. I appreciate the opportunity to be here this afternoon to discuss hours of service and Federal Motor Carrier Safety Regulations.

Although the Federal Highway Administration has failed to meet the 18-month deadline, as you have pointed out, we believe that those in the trenches, the people that we come into contact with day in and day out, are making a reasonable effort to carry out the mandate of the 1984 law.

Unfortunately, getting clearance through the Office of the Secretary and OMB is another matter. That I think is where the logjam is at and where I would respectfully suggest attention be given.

I have attached a list of the rulemaking, as we understand it, and have attached it to our entire statement.[1] Our organization, I believe, has submitted comments to most, if not all, of the advance notice proposals for rulemaking, et cetera, that have been issued by the Secretary, or by the Federal Highway Administration.

We will continue to do what we can to work in the area of strengthening the regulations.

Turning to the question of hours of service requirements, I want to stress that driver fatigue is one of the most important truck safety issues which faces us. According to last Sunday's New York Times, driver fatigue may have been a factor in as many as 41 percent of the accidents involving large trucks.

I have attached a copy of our comments that we submitted to the rulemaking this past August, and we put a tremendous amount of work into that area and into our comments. We polled our 250–300 locals that represent heavy truck drivers, and 142 of the affiliated locals responded. There was a tremendous amount of interest on the part of our locals, and their comments and their positions are appended to the statement which we have submitted to you for the record.

The large number of responses really didn't surprise us because the locals and the members that they represent recognize that there is a tremendous driver fatigue problem.

The roadside inspections that have been conducted in recent years show that a minimum of 12 percent of all the drivers were taken out of service primarily because of hours of service violations or not even having a log book at all.

Unfortunately, the proposed rules by the Bureau of Motor Carrier Safety weaken the hours of service regulations rather than strengthen them. We respectfully ask that you look at our comments in that regard.

We believe this is contrary to what we understood to be the intent of Congress in 1984, when the requirement was made to repromulgate the regulations.

Also, I would be remiss, Senator, if I did not express our continuing concern about the condition of the equipment on the highways today—you already mentioned something about this problem—and the urgent need I think to promulgate and strongly enforce the regulations dealing with the inspection, repair, and maintenance of the commercial equipment.

While many carriers are carrying out their responsibility in the maintenance of their equipment, unfortunately we continue to see many tragic accidents caused by unsafe, poorly maintained equipment. The Shirley Highway was blocked this morning. As you mentioned, it was Route 270 yesterday, and recently we read about the two teen-aged children who were killed here in suburban Washington.

In the last fiscal year, the Maryland State Police, through their random truck inspection program, under the MCSAP program found, I believe, about 55 percent of the 4,000-plus trucks so unsafe that they were put out of service.

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[1] The attachments were not reproducible.

The Maryland figures only show that about 13 trucks a day were inspected, with about 7 being put out. When you compare that to thousands and thousands of vehicles travelling on the highway, as you can see, they are really not reaching the problem.

So, I think we have to ask ourselves if we have our priorities in the right place, and I would respectfully suggest that we do not.

Recently, Congress substantially increased the funding of the MCSAP program, which pays for many of these roadside safety inspections. I think this is going to be helpful. We would like to see it increased even further.

We would also like to see the Federal Highway Administration getting more involved in roadside inspections because that is where we can get at this equipment problem, and not only the equipment, but the driver fatigue problem.

Much effort was put forth by Congress this past year to place additional requirements and penalties on the driver, and although we supported most of the legislation, there is still a lack of understanding or a recognition among many people in Government that the driver is simply an extension of the employer, and the employer (carriers) at the mercy of the shipper. As you have already alluded to, in this unregulated environment, with overcapacity and cut-throat competition and predatory pricing, we have a jungle out there.

I will try to sum up as quickly as I can, Senator.

I believe it is time for us to recognize the root cause of the problem and do something about it.

I think a couple of good starts would be to begin turning our attention to the irresponsible carrier and the irresponsible shipper who are disregarding their responsibility in providing safe movement of the Nation's goods.

In addition, we would strongly submit that the Office of the Secretary—and I think that is where the responsibility has to lie—should give a higher priority to rulemaking on equipment issues. It seems that they are taking the easy way out. It's easy to put regulations on the driver because they only have to do battle with the teamsters. But when they put regulations on the shipper or the carrier or the equipment, they have everybody in there on their neck. They have taken the easy way out.

For example, brake compatibility, including antilock brakes, to reduce the jackknife problem, the 102-inch tire-track width, where Congress allowed the trucks to go to 102 inches, but they still are allowed to put a 96-inch track underneath it, which results in a higher incidence of rollovers, cab integrity, splash, and spray devices, which create tremendous problems for the truckdriver in his mirrors, and underride protection. Those just name a few of these issues.

I think that the Secretary has to assume the responsibility and start taking the heat, if necessary, from these groups and do something in these areas.

Thank you, Mr. Chairman.

The **Chairman**. Thank you, Mr. Durham.

Mr. O'Connell.

Mr. **O'Connell**. Mr. Chairman, committee staff, my name is Michael O'Connell. I am appearing today on behalf of the president of the Owner-Operators and Independent Drivers Association of America.

The independent owner-operator performs a vital and growing role in the Nation's truck transportation industry. Since the passage of the Motor Carrier Act of 1980, the number of small fleet operators and owner-operators has grown dramatically. This indicates that owner-operators will play an increasing role in commercial vehicle safety issues.

The association stresses that the driver is the key to commercial vehicle safety. While OOIDA disagrees with some of the provisions of the Commercial Vehicle Safety Act, the association fully supports its passage and is active in promoting it.

OOIDA feels that the committee was right on target in attempting to reduce the blood-alcohol content level. OOIDA applaudes your tenacity and your holding true on that issue.

The association also feels that, while that act goes a long way toward solving some of the problems related to commercial vehicle safety, standardized testing of drivers will help, but it is not the answer to the problem. The association feels that it is imperative that all entry-level drivers receive uniform training in commercial vehicle operation.

The president of OOIDA is also the chairman of the board of the Professional Truck Driver Institute of America, which is currently in the process of developing standardized training curriculums for truckdriver training programs.

A driving test, when performed in normal daylight operation, does not take into account night driving, which is a significant portion of the driver's actual operations also, unless it is a very sophisticated test, it probably would not take into account areas such as skid control procedures. Skid control is a major problem in commercial vehicle safety. By receiving training in these areas prior to testing, you insure that, while a driver may not be able to actually control a skid or operate safely in night driving, he or she is at least aware of the fundamentals before he enters. Therefore, the association would offer to the committee a suggestion that it might consider as part of any further legislation in the commercial vehicle safety area, requiring the training of entry-level drivers in accredited truckdriver training schools.

The association is also concerned with the Bureau of Motor Carrier Safety hours of service regulations. OOIDA feels that the inflexibility of the current regulations undermines their effectiveness.

While OOIDA has no disagreement with the concept that some regulation is needed in this area, it is often the case that the regulations and the required times do not correspond with the driver's body clock. In that regard also, we would not favor the suggestion that was made the last time I had the opportunity to appear before the committee, that the responsibility for hours of service violations possibly be shifted to carriers or shippers. The association feels that something should be done in the area where economic coersion is used to induce a violation of the hours of service regulations, but that the responsibility should not be shifted. If the driver is to take control of the shipment in the truest sense, he is responsible for any violations that he might incur.

Lastly, I would like to point out one issue that is of concern, which the association feels may undermine the effectiveness of the recently passed Commercial Vehicle Safety Act.

On November 12, Secretary Dole received a letter from the American Farm Bureau Federation requesting an exemption for farm truck operators from the requirements of licensure and operations.

The association opposes that request. While several of OOIDA's members would probably fall into this category, it is often the case that persons living in rural areas and owning acreage purchase farmer vehicle license plates to avail themselves of lower insurance and avoid the heavy vehicle use tax by licensing a tractor-trailer as a farm vehicle. These then engage for most of the year in operations that are commercial trucking operations, using the truck for only a small percentage of the time on the farm.

OOIDA feels that, while these vehicles are engaged for part of the time in farm use, the fact that they are used as commercial vehicles and are on the public roads presents a significant safety hazard. There are that they should be regulated as other commercial vehicles.

Thank you.

[The statement follows:]

## STATEMENT OF THE OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION OF AMERICA, INC.

Mr. Chairman, members of the Committee, and Committee staff, my name is K. Michael O'Connell. I am Counsel to the Owner-Operators Independent Drivers Association of America, Inc. ("OOIDA" or "Association"). OOIDA is the national trade association representing the views of the nation's more than 300,000 independent owner-operators. Association members, who are small business men and women that own and operate individual heavy duty trucks and small truck fleets. The Association's headquarters is located in Oak Grove, Missouri.

Representatives of OOIDA participate in committees of the National Academy of Sciences, the Trucking Industry Alliance, the National Governors Association, and the American Association of State Highway and Transportation Officials. The President of the Association is also the owner-operator representative to the U.S. Department of Transportation's Motor Carrier Advisory Committee.

### THE INDEPENDENT OWNER-OPERATOR

Independent owner-operators perform a vital function in the nation's truck transportation industry. Owner-operators transport approximately 90 percent of all exempt agricultural commodities transported by truck in the United States. In addition, owner-operators who lease their services to regulated carriers are a very significant and growing component of the motor carrier industry.

A recent survey indicated that large fleets (over 500 vehicles) represent only 11 percent of all Class 6, 7 and 8 trucks, tractors, and trailers on the road. MacKay & Co., Downers Grove, Illinois (1985). The same study pointed to the importance of the small fleet operator in the overall truck tranportation industry stating that the total "share of the market"held by small fleet operators will continue to rise in the future as the portion of the national fleet represented by large operators continues to decline.

### THE ROLE OF THE DRIVER IN COMMERCIAL VEHICLE SAFETY

It has been estimated that equipment defects casue less than 10 percent of overall highway accidents. This statistic indicates that, while vehicle maintenance is important to highway safety, the driver and those who exert influence over him remain the key to substantial improvements in overall commercial vehicle safety. OOIDA feels that the relationship between vehicle defects and drivers in the safety equation should be reflected in the relative emphasis place on programs and the allocation of resources for highway safety. OOIDA supports the recently passed Commercial Vehicle Safety Act of 1986. It recognizes the important role that such a single commercial driver's license can play in improving highway safety.

The Association feels that the most effective way to deal with the issue of driver safety is not to waste a disproportionate share of resources attempting to "catch" bad drivers, rather it is to assure that drivers are adequately trained *before* they begin their driving career. The President of OOIDA is also the Chairman of the Board of the Professional Truck Drivers Institute of America, Inc. ("PTDIA" or "Institute"). PTDIA was established in 1985 by the Trucking Industry Alliance, a broad-based coalition of independent owner-operators, carriers, manufacturers, suppliers, and trade associations involved in the trucking industry. The goal of PTDIA is to improve the overall quality of truck driver training. To accomplish this goal, the Institute is developing a standard curriculum for truck driver training programs along the lines of the suggested minimum driver training standards recently proposed by the Federal Highway Administration. The Institute is also developing a certification program based on the standard curriculum and to certify that driver training programs are using the recommended curriculum.

OOIDA feels that it is imperative that drivers receive adequate training prior to being licensed. While the new uniform license system and testing of entry level drivers will go a long way toward ensuring that drivers possess minimum skills, no test is capable of measuring all of the skills necessary for the safe operation of commercial vehicle. For example, a driving test administered during normal working hours does not ensure that the driver possesses knowledge of night driving techniques, which will likely comprise a major component of his or her driving career. Similarly, there is no way to ensure that drivers tested on dry days are competent to perform vital maneuvers such as skid control.

The Association strongly urges the Department of Transportation to validate its recently released standard commercial driver examination, and to refine its proposed driver training curriculum. When these objectives are achieved and put into use by the driver training industry, the Association feels that it would be appropriate for the Committee to urge the Department of Transportation to adopt a mandatory requirement that all entry level commercial drivers receive formal training prior to being permitted to take a commercial drivers license examination. The Association recommends that in developing such a requirement, the Committee explore the possibility of a creative partnership with PTDIA or another private sector entity to implement this requirement.

Unfortunately, there are no "quick fix" solutions to the dirver safety issue. However, the Bureau of Labor Statistics recently predicted that there will be an increase of more than 17 percent in demand for truck drivers over the next ten years. This projected growth presents a significant opportunity to improve driver safety if entry level drivers are required to undergo a minimum amount of training.

## HOURS OF SERVICE REGULATIONS

OOIDA has a continuing concern with the Bureau of Motor Carrier Safety Hours of Service Regulations. This concern stems from the Association's view that the inflexibility in the current system ignores the differences in physical characteristics and work habits among drivers. While the federal regulations permit ten consecutive driving hours, OOIDA notes that the State of California permits a twelve-hour driving period. This substantial difference in time (and productivity) has not been shown to have an adverse effect on safety in that state. The Association feels that, over the years, the inflexibility of the present federal hours of service regulations has undermined their overall effectiveness. The Association urges the Department of Transportation to review this issue.

Some interests in the trucking industry have advocated adoption of a provision that would penalize shippers for hours of service violations under certain circumstances. OOIDA is opposed to a substantial transfer of the responsibility for hours of service violations to the shipper. The Association feels that the driver is ultimately in control of the shipment once he leaves the dock or terminal. Therefore, the Association feels that he or she should continue to be responsible for his or her own actions.

OOIDA does recognize that, on occasion, shippers and carriers attempt to use economic coercion to force drivers to violate the hours of service regulations. The Association feels that it is appropriate to penalize a party engaged in the coercion only in those cases where economic pressures are clearly being used to coerce drivers into violations of the hours of service regulations. However, the Association feels that in order to achieve their intended result, any such sanctions must apply to shippers *and* carriers.

### REISSUANCE OF MOTOR CARRIER SAFETY REGULATIONS

As part of the Motor Carrier Safety Act of 1984, the Department of Transportation was required to review its motor carrier safety regulations, as well as the regulations of the various states. The Department has interpreted this provision as requiring that it reissue the entire body of motor carrier safety regulations.

OOIDA feels that because of the huge volume of state and federal regulations, revising the body of rules, in itself, presents a difficult if not impossible task. The Association feels that the Department should take this opportunity to reflect on the realistic needs for safety regulations. The Association suggests that in reissuing the regulations, the Department should utilize a "zero based" approach, in which all existing requirements would be discarded and a new, streamlined regulatory structure developed.

### REGISTRATION OF FARM TRUCKS

There is a significant safety concern which the Association would like to bring to this Committee's attention. On November 12, 1986, the American Farm Bureau Federation asked that Secretary Dole exempt farm trucks from the driver licensing requirements of the Commercial Vehicle Safety Act of 1986. The Association feels that if granted, this request could seriously undermine the integrity of the Commercial Vehicle Safety Act of 1986.

Many persons living in rural areas register their vehicles as farm trucks in order to avail themselves of the lower registration costs, insurance costs, and the exemption from the federal highway use tax. Many such vehicles, while registered as farm trucks, are used for farm operations during only a very small portion of the year. When not in use in farm operations, these trucks are often used in long-haul truck operations. Therefore, these drivers should be subject to the same licensure requirements as all other commercial vehicle operators. The Association feels that granting the exemption for farm truck operators would undermine the effectiveness of the Commercial Vehicle Safety Act of 1986.

Mr. Chairman, thank you for allowing me the opportunity to represent the views of owner-operators on these important highway safety issues.

The **Chairman**. Thank you all very much.

I would solicit from you not necessarily now, unless you have something that strikes you as being extremely important to say, but I would solicit from you your thoughts as to where we go from here.

Clearly, safety is going to continue to be a major issue. It should be a major issue. Those of us on this side of the rostrum who are interested in it depend on those of you who are truly involved in it in a day to day way. I don't know if you have any comments right now, but I would certainly welcome any views that you have.

Ms. **Batts**. I would like to take this opportunity.

I think we have to look at the safety from the standpoint of legislative initiatives as well as regulatory initiatives, and parallel those two initiatives to make sure that they are complementing each other.

From the standpoint of the legislative initiative, I must have a Motor Carrier Administration. Six weeks ago Congress passed the commercial driver's license, a massive program, which will regulate the licensing of about 2 million drivers.

Currently, there are a number of people at the Department of Transportation who claim to be in charge of implementation, but no one seems to be in charge totally.

Congress also upgraded roadside inspections, from a funding of $16 million to $50 million. Again, a Motor Carrier Administration is needed to manage that increase in funding.

Second, Congress needs to reauthorize the Hazardous Materials Transportation Act. The trucking industry is suffering from a proliferation of routing and fee schemes which, from our standpoint, do nothing to improve truck safety.

Many localities are engaging in, what I call the "NIMBY" philosophy "not in my back yard." They are merely rerouting trucks and doing nothing to improve truck safety.

Finally, from a legislative standpoint, I must support what the patrol man from Ohio said. If Congress is truly interested in truck safety, it must keep the 55 mile per hour speed limit. It saves lives, it reduces the severity of accidents, and it saves fuel.

On a 350 mile run, the difference between going 55 and 65 is 20 minutes. I can't imagine why anyone is in that big a hurry.

The **Chairman**. Any other comments?

Mr. **Durham**. Senator, I would simply state that I don't believe that you're going to see any move in the regulatory area when it comes to equipment issues.

I think that has to be almost addressed by Congress because of the pressures and everything that comes to bear. There are a lot of dedicated people over at DOT, but, unfortunately, there are some serious problems getting anything to move through.

I think the other comment I would make is a comment that I have made several times before. Some people fail to realize the monster that we have created through the deregulation of this industry and what the resulting safety problems are out there on the highways.

Now, whether or not we unscramble that egg and reregulate the industry, I think we have to address the problems that we have created in deregulating this industry.

The Chairman. I certainly agree with the first part of your statement anyhow.

This leads me to my valedictory comments, which will not take long.

Twenty years ago, Congress answered the question: should the Federal Government be involved in auto safety regulations. It answered this question with a resounding "yes." Congress decided that safety was of such importance that it should not be left to voluntary actions by auto makers.

Twenty years ago, Congress established NHTSA as an expert agency. It gave NHTSA the mandate to improve safety. It gave it the funding necessary to hire expert staff. It gave it the power to require safety standards.

Similarly, Congress has authorized DOT's Office of Motor Carriers to improve truck and bus safety.

NHTSA is failing Congress. The OMC is failing Congress.

It does not take an expert agency to recognize the need for head restraints, minimal roof strength, and side impact protection in light trucks. It doesn't take an expert agency to recognize that light trucks and vans, family vehicles, should be as safe as passenger cars. It doesn't take an expert agency to see that three-point belts in the back seat are an improvement over lap belts. It doesn't take an expert agency to recognize that spray flaps, side skirts, and fenders diminish splash and spray from trucks.

We don't need regulatory agencies if they are going to leave safety up to voluntary action.

Where do we go from here?

Congress, unfortunately, cannot rely on NHTSA.

Congress, unfortunately, cannot rely on OMC.

Therefore, reluctantly I say Congress must do the job of regulatory agencies. Congress must act itself.

Congress must get airbags in cars. Congress must make sure that passive restraint protection is not eliminated by the passage of sham seat belt laws. Congress must make sure that Ford's commitment to 1 million airbags, or to closer than 1 million than half a million they say, by model year 1990 is not undermined by the elimination of the passive restraint requirement. Congress must make sure that when a mother loads her children into a family van, the children are as safe as they would be in the family car.

Congress must make sure that three-point belts are available to back seat passengers. Congress must make sure that trucks are inspected each year, just like passenger cars, and that truck drivers are held to strict hours of service.

During the past 6 years, this committee has gotten into the detail of safety regulation. It must continue to do so.

I will introduce legislation in the next Congress. It will be detailed. It will read like a regulatory agency document. But it will do what clearly needs to be done.

I thank this panel and all other witnesses.

This concludes this hearing and the operation of this committee for the Ninety-Ninth Congress.

[Whereupon, at 12:37 o'clock, p.m., the committee adjourned.]

# ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

## STATEMENT ON BEHALF OF THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

The National Industrial Transportation League takes this opportunity to present, as requested, its views on proposals that would, under certain circumstances, make shippers liable for hours of service violations by commercial motor vehicle operators.

The League is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with the purchase of freight transportation services. It is the only nationwide organization representing shippers of all sizes and commodities using all modes of transportation to move their goods in interstate and international commerce. Its members, directly or indirectly, are responsible for the routing of about 80 percent of the nation's commerce.

The League is dedicated to assuring the safety of our nation's highways. It is proud to have helped enact the Commercial Motor Vehicle Safety Act of 1986. However, it sees no need, at this time, to alter the traditional approach for enforcing hours of service requirements—an approach which places compliance responsibilities on the carrier and its drivers.

Rather than attempt to find a legislative solution to this issue, the League believes that the public interest would be better served through a diverse educational program aimed at increasing shipper and carrier awareness about a variety of safety issues including hours of service.

In furtherance of this goal, the League has formed a joint task force with the American Trucking Associations to deal with this and other safety matters. During our annual meeting last month, this task force announced the organization of an educational program to address safety problems which can result from certain service demands, including excessive speeding, overloading, hours of service violations, and improper loading practices.

The joint task force plans to meet throughout the next year to develop the necessary educational materials, assure their dissemination to the shipper and carrier communities, and measure their effectiveness. It is anticipated that, as this program develops, other shipper and carrier organizations will become involved in this educational endeavor.

The League supports an educational, rather legislative, approach to this safety problem for a variety of reasons, not least of which are the complexity of transportation arrangements, the requirements of current laws and regulations, and the lack of statistical or other evidence demonstrating that a problem exists.

In dealing with the complexity of transportation arrangements, a distinction has to be made between the less-than-truckload and truckload sectors of the industry. It would be patently unfair to require less-than-truckload shippers to have any responsiblity for hours of service requirements, since they have absolutely no control over the dispatching of the trucks or their drivers. When an LTL shipper buys transportation services, he has no say in how or when a carrier moves his goods. These decisions are strictly the prerogative of carrier management.

With respect to the truckload sector, new production techniques, such as use of just-in-time inventories, competitive factors, both domestic and international, as well as the service innovations fostered by the 1980 Motor Carrier Act, have created an environment where shippers carefully shop for the carrier services which best meets their special transportation needs. It often is standard operating practice for shippers to contract serveral carriers to determine which can most efficiently handle their goods.

In response to this environment, many carriers have improved their productivity through the use of sleeper and relay teams as well as through carefully selected routing patterns and closer attention to their customers' production and distribution cycles. They also using computers, including in-cab computers, to better monitor their operations and to control dispatching functions and in-transit times.

In addition, this process requires the involvement of a variety of individuals performing a wide range of tasks. In any single freight transaction, shippers and carriers each have a number of employees involved in the purchase amd performance of this service. As a result, it is not unusual for the shipper's employees to have no contact with the carrier employee who dispatches the equipment and driver and arranges the routing instructions. The number of persons involved in a single freight transaction can be further expanded when a third-party, such as a broker or freight forwarder, is involved.

As a result, what appears to be a simple transaction—one entity buying service and another providing it—is really a very complicated one where it is virtually impossible to fairly allocate responsibility when one looks beyond the person actually violating the law.

An example of this is: a shipper is contacted by a carrier sales representative. The shipper indicates that he needs some goods moved from Richmond, Virginia to Denver, Colorado, and they must be delivered within two days. The carrier sales representative says his company can perform this service, and the shipper agrees to the arrangement.

If the carrier uses a sleeper team or a series of relay drivers, he can meet his customer's service needs and still comply with the hours of service regulations. However, if he uses a single driver, there would be a violation of these regulations. It is not the shipper's fault if the carrier does not provide the former arrangement, since the carrier knows he has the responsibility for complying with the hours of service regulations. The shipper assumes that if there was a problem with his service request, the sales representatives would have told him so.

In addition, many trucking companies pay their drivers on a mileage basis, rather than an hourly wage, or they provide incentive programs for those drivers who deliver on or before the schelduled time. This could create an environment where internal pressures within a trucking firm foster a disregard for these federal regulations—a situation about which the shipper would have no knowledge or control.

Another complication is that, in many instances, the driver who picks up a truckload shipment from a loading dock is not the individual who transports it to its final destination.

With respect to current laws and regulations, the shipper has no right to ask if he can inspect a driver's time logs. As a result, no shipper employee can verify how long the carrier employee has been on the raod that day, let alone what his schedule has been for the past week—critical information in determining whether a violation has or could occur. If a pickup driver is used, the shipper has no way of knowing which carrier employee will be transporting his goods, or what his status is under hours of service regulations.

In addition, the 1984 Motor Carrier Safety Act provides protections to a driver who reports unsafe operating practices. It would seem that these safeguards should be sufficient to protect any individual who is attempting to comply with the hours of service regulations.

If the current law is to be changed, the League is concerned about resolving such policy questions as:

Where does the responsibility lie when a carrier takes unilateral action that he believes is in his customer's interest, but never obtains the shippers' consent for it?

Where does the responsibility lie when a carrier dispatcher errs by not sending the right type of driver or drivers or by selecting more circuitous routes than may be necessary?

Where does the responsibility lie when a pick up driver is used or when transportation is purchased through a third party?

How can a shipper be liable for breaking the law, when it is the carrier or his employee who must make the decision to do so? When a shipment is hundreds, or even thousands, of miles away from a shipper's facility, what control does the shipper have in preventing hours of service violations?

How do you protect a shipper from allegations about hours of service violations brought by a disgruntled carrier who is denied a job because a variety of price and service considerations led the shipper to choose another trucking firm?

Finally, there is the issue of documenting whether a problem exists. While there has been allegations about shippers refusing to deal with carriers unless they are willing to violate these regulations, the League knows of no shipper who has been engaging in this practice.

Before any legislative action is taken, we believe that the Department of Transportation should be directed to study the issue to determine if a problem exists, and if so, in what sectors of the industry. To progress legislation without this evidence does not serve the public interest.

In conclusion, the League strongly supports efforts to enhance the safety of our highways, and is proud to have helped enact the Commercial Motor Vehicle Safety

Act of 1986 as an important step in this program. We believe that hours of service requirements contribute to highway safety, and should be enforced.

However, before any legislative action is taken to amend the current laws affecting enforcement of these federal requirements, we believe that an educational program, such as that being developed by the League and the ATA, should be given an opportunity to work.

As we have noted, the practical and legal ramifications of any legislative amendments could seriously disrupt the efficient flow of interstate commerce. They also would require further federal study to document the scope and other pertinent features of any perceived problem.

We believe that the educational program being planned by the League and ATA should assist in eliminating hours of service and other safety violations, thus, contributing to increased highway safety.

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## STATEMENT OF JEREMY KAHN, CHAIRMAN, TRANSPORTATION LAWYERS ASSOCIATION LEGISLATIVE COMMITTEE

Chairman Danforth and Members of the Committee, the Transportation Lawyers Association ("TLA") welcomes this opportunity to submit its testimony to the Committee in its conduct of oversight activities as prescribed by § 230 of the Motor Carrier Safety Act of 1984 ("MCSA).

TLA is a specialized bar association with approximately 600 members throughout the United States, whose practice involves the representation of various transportation entities, particularly motor carriers subject to safety regulation by the U.S. Department of Transportation ("DOT").

By virture of their activities as counsel to motor carriers, TLA members have become increasingly aware of and increasingly active in safety matters affecting their motor carrier clients. Although safety has always been an important issue, it is today widely acknowledged that in the current, highly competitive motor transportation industry, one of the effects of recently lessened economic regulation is substantial economic pressure upon motor carriers to "cut back" in every available aspect of their business; safety is one of those areas in which economic pressures to "cut back" may be greatest.

There exist today conflicting views as to whether the economic pressures to "cut back" on safety have adversely affected the level of motor carrier safety. TLA cannot here state with certainty if public safety has been adversely affected; TLA can state that it believes that the MCSA was enacted as a statement of Congressional concern that the DOT monitor motor carrier safety closely and implement those safety standards which Congress included in the MCSA. Congressional concern is itself a reflection of a widespread public concern. For example, a recent front page article in the Sunday New York Times expresses grave concern over the "problem" of truck safety.

TLA is a staunch advocate of appropriate safety regulation of the motor carrier industry; the organization has made known its concerns in this area to various Congressional committees over the years. TLA believes that this Committee must strongly direct the DOT to follow both the letter and spirit of the MCSA more closely in the future than it has done thus far since MCSA was enacted in Ocotber, 1984.

TLA views the MCSA as a statement by Congress that regardless of the level of economic regulation of motor carriers, safety regulation will not and must not be compromised. TLA views the MCSA as a statement by Congress that safety is such an important issue that DOT must review and analyze existing laws and promulgate such new regulations as are necessary to maintain and improve motor carrier safety. TLA is concerned that such a strong statement of purpose has been either seemingly ignored or at best slowly followed by the DOT in implementation of various portions of the law. A few specific examples will illustrate the reason for TLA's concern.

As one example, § 208 of MCSA calls for a review of and an analysis of state safety laws and regulations to be completed by April 30, 1986, and an annual review to be held thereafter. This review is intended to permit the standardization of the current frequently mismatched state regulations to ensure greater compliance by the entire trucking industry and more effective enforcement of a single uniform set of regulations. Only recently, on October 16, nearly six months following the time by which the analysis was to have been completed and statutory determinations were to have been made, DOT has announced that it has only now compiled the appropriate state regulations; any analysis of those regulations, and the determinations required by MCSA are nowhere in sight.

As a second example, under the MCSA, the DOT was to promulgate new procedures (not later than April 30, 1986) to determaine the "safety fitness" of commercial motor vehicles. With such minimal economic regulation of for-hire motor transportation, the safety fitness determination is the only practical government review of the qualifications of carriers, and particularly new entrants, with respect to willingness and ability to comply with safety regulations. On June 25, 1986, two months after final regulations were to have been in place, the DOT announced a proposed rulemaking (the first step in a lengthy administrative process) proposing rules to implement § 215 of the MCSA.

This is not the forum for arguing the details or merits of a proposed rulemaking proceeding, but the proceeding's timing is illustrative of the laxity with which this portion of MCSA is being implemented. At the same time, the proposal reflects DOT's apparent choice to go well beyond the terms of the MCSA when it did finally choose to act. The regulations it has proposed, if enacted, would place a motor carrier which receives an "unsatisfactory" safety rating out of business. Such a Draconian result (the adjective is used knowingly—as a practical matter the assignment of a "satisfactory" or "unsatisfactory" safety rating is a highly subjective matter—an "unsatisfactory" safety rating frequently has little to do with an immediate affect on highway safety) is inconsistent with the statutory goal of assuring compliance with safety regulations.

As yet another example, § 213 of the MCSA imposes new, higher fines of $10,000 for "a serious pattern of safety violations." TLA is unaware of any DOT standards established by which this statutory condition is to be considered, before these significant fines may be imposed, although there are reported instances of such fines being implemented in the absence of any standards.

In summary, it appears to TLA that the DOT is implementing the MCSA by way of a schizophrenic policy of ignoring some deadlines for taking action on certain sections of the MCSA, while at the same time reaching far beyond the limits imposed by Congress in implementing other portions of the law.

In practice, it appears that the DOT is unconcerned with safety; instead, its concern repeated in incident after incident and public statement after public statement is that the DOT concern itself only with promoting the concept of free entry into the trucking industry, not with promoting safety. Repeatedly, DOT expresses its concern that *any* enforcement of safety regulations might result in some barrier to entry into the trucking industry, a result the DOT finds unacceptable. Yet, the DOT is not directed by MCSA to weigh the benefits to its "deregulatory" view of abandoning safety regulation in its entirety against what it perceives as harm to its "deregulatory" view of imposing even the most minimal safety standards upon even admittedly unqualified new carriers who wish to enter the regulated trucking industry. Instead, the DOT has been directed by Congress to enforce the safety provisions of the MCSA and to give effect to Congressional policy.

TLA is concerned and it believes this Committee should be concerned with DOT's obvious attitude toward MCSA, as illustrated recently by comments in a speech delivered by Jennifer Dorn, DOT's Associate Deputy Secretary, to a conference sponsored by DOT's Urban Mass Transportation Administration in San Diego on November 17. In that speech, she applauded the DOT for its efforts to destroy the "myth" that there exists some correlation between deregulation of the motor carrier industry and a decrease in truck safety. The MCSA rather clearly directs DOT to investigate the obvious correlation and to provide findings from which Congress can then decide whether to act further. The MCSA rather clearly does not direct the DOT to undertake these directed activities guided by the preconceived notion that there is nothing worthy of an investigation.

This Committee, it is suggested respectfully, should require the DOT to direct its attention to completing as quickly as feasible those studies and promulgating those standards required by MCSA; to remain within the guidelines established by the MCSA; and to make it clear to the industry and the public that a comprehensive safety policy is a matter of utmost concern to the Congress.

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## STATEMENT OF THE MARYLAND INDEPENDENT TRUCKERS AND DRIVERS ASSOCIATION, INC.

The members of the Maryland Independent Truckers and Drivers Association and the South Dakota Independent Truckers Association are pleased to have the opportunity to present their views on the oversight of the Bureau of Motor Carrier Safety regulations on front truck brake connection and trucker hours of service.

With respect to front brakes, the members of these two Associations obviously insist that all trucks should have adeuqate and reliable brakes at all times. We do not support the practice of disconnecting front brakes. We believe, however, that brake systems could be improved in order to prevent the possibility of lock-up of front wheels on slippery pavements and we believe that manufacturers should work closer together through the aegis of the Society of Automotive Engineers or a comparable group to ensure compatibility between units manufactured by different companies. For example, the brakes on a Mack tractor should be compatible with the braking system on a Fruehauf trailer. Technology is available in the manfacturing community to ensure adequate, reliable brakes for tractors and trailers.

We also support regulations requiring tractors with disconnected front brakes to have those brakes connected. With regard to retrofitting older trucks, this would be prohibitively expensive and, even more importantly, it is our understanding that engineering problems involving frame stress and control instability may well occur in vehicles not specifically designed to have front brakes.

Regarding hours of service, we believe that the current hours of service requirement has served that trucking industry well. Therefore, we recommend that the number of hours not be changed. We also recommend retaining the requirement that drivers record their time. We ask, however, that the record be easy to maintain and, at the same time, provide for the recording of adequate data.

We suggest that the driver log be modified to require fewer items and not include any extraneous information such as: bill of lading numbers, home terminal, hours of service recap, and other entries that give no return in control of hours.

We also suggest that consideration be given to expanded experimentation with other methods of keeping a time record. For example, with the advent of small computers, even hand-held computers, a driver could easily record his or her time and location or route. The information could then be entered into a central data base and transmitted directly to his or her company or employer.

Thank you again for the opportunity to present testimony on these very important issues.

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## STATEMENT OF C.R. BLYDENBURGH

As Senator Pell and Chafee can attest I have been battling for an assortment of safety improvements on various categories of vehicles for several years. It started in 1969 with a determination to attain a maximum degree of uniform height on bumpers on as many categories of vehicles as possible and ended (momentarily) with the recent denial by NHTSA for my petition seeking a sensible standardization of type and location of the major operating controls in cars and other light vehicles. Along the I got very involved with the long overdue resolution of the major safety hazards associated with the large trucks including the 18 wheelers.

In view of the unexplained increase of accidents involving the 18 wheelers including the one about 10 days ago on the New England thruway when 14 piled into each other I would prefer to confine this statement to these problems and any indirectly related to them. I was absolutely appalled when I learned a few years ago that what appeared to be a "device" on the rear of some trucks and trailers to prevent cars from "sneaking" in under them is official! I was further appalled to learn that only a small percentage of "rigs" are required to have the "device" and they are the ones operating under ICC regulations. Because of the varied and/or unusual rear end of many types of trucks no effort has been made to develop any protective "device" for them! Needless to say, the requirements by the Bureau of Motor Carrier Safety Permits 5 different heights for the device, ranging from 23½" up to 29". As you will note, the lowest one is 3½" higher than the top of a passenger car bumper when the car is at rest (as opposed to dipping in front when brakes are applied). With today's trend to lower the hoods on the "sportier" models many could "sneak" along way under the 29" version and far enough to decapitate the front seat occupants. This is exactly what happened on route 95 in Providence 3 weeks ago (see photo) and just happened again on 95 in Sharon, MA. Unfortunately, I cannot show you a more graphic picture of a similar "underride" about 3 years ago, also on route 95, because Superintendent Walter Stone of the Rhode Island State Police steadfastly refused to release an official photo, even for a Senate hearing. I plan to photograph the most recent one in Sharon today but there won't be time to forward it.

A few years ago I tried to prevail upon NHSTA to show more concern for side underride and was informed at the time that the problem was not serious enough to justify the cost to the trucker. However, side underride is on the increase and perhaps part of it can be blamed on the use of tandems and other longer units. Oddly enough in the western countries in Europe they respect both possibilities and strive to protect against both. A recent photo of a Russian truck showed a very simple but apparently very effective "device" on the sides. It is amazing how much further ahead Europe is on various aspects of safety, especially on trucks and including superior braking.

A prompt solution to the splash and spray problem would increase safety considerably because it would eliminate the tendency to be blinded momentarily by the deluge of water when the hugh "rigs" pass cars.

In July I responded to a request for comment from the Bureau for Motor Carrier Safety which related to BMCS's proposal for stricter rules for drivers of hazardous materials. It was only recently that gasoline was labelled as a hazardous material. Most of us assumed that it was limited to such items as nuclear waste etc. In view of the amount being hauled daily under all sorts of highway conditions including highly congested areas I was happy to note that gasoline is considered a hazardous material as it may help to overcome NHTSA's objections to requiring protection against side underride. The vulnerability of the valving and piping under the mammoth gasoline tankers can give one the "willies" when he visualizes what would happen if another vehicle "wiped-out those components. Supportedly there is a safety element incorporated in the valves but I for one would not agree to test them!

While it deviates from my basic test, I feel it is essential to challenge the logic of trying to isolate the best drivers for hauling hazardous materials because it implies that for the remainder of the vast assortment of loads anything goes! There are a few other unusual types of loads which require drivers just as good since they are responsible for securing those loads. Flat beds haul some real killer-type loads if they should break loose from their bindings.

One other deviation from the basic text relates to the so-called high riders because their excessively high bumpers also present a real underride problem. I don't know which is more difficult to accept, the fact that BMCS has done nothing to upgrade rear underride protection since first required in 1952 or that NHTSA does not have statutory authority to intervene in (or preferrably ban) any and all modifications to vehicles manufactured and sold for on-highway use. Rather than worry about banning the production of ATV's (which only require parental control) Congress should have gotten more involved with the problems created by the silly fad involving the adult toys—altered by adults for adults with no consideration for others on the highway! These too are capable of decapitating the occupants of passenger cars and other light vehicles and it is criminal to allow this fad to go unchecked. No facit of highway should be ignored, especially when the only reason might be the cost involved.

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PUBLIC CITIZEN LITIGATION GROUP,
*Washington DC, September 22, 1986.*

Hon. JOHN C. DANFORTH,
*Chairman, Committee on Commerce, Science and Transportation, U.S. Senate Washington, DC.*

DEAR SENATOR DANFORTH: I am writing to apprise you of an insidious problem that is responsible for thousands of truck accidents each year, including a large percentage of the more serious accidents. The problem is driver fatigue. It is a problem that has been overlooked by our government for too long, and must now be addressed. Unfortunately, the Department of Transportation is not doing so.

During the Depression, the interstate motor carrier industry secured from Congress an exemption from the time-and-one-half pay requirements of the Fair Labor Standards Act. As a result, the industry has no economic disincentive from working professional truck drivers more that 40 hours per week. On the contrary, the industry has a very strong economic incentive to hire the fewest possible drivers and squeeze the maximum possible labor out of them due to the many fixed, per capita costs of maintaining an employee on the payroll today. Such costs include, for example, premiums for workmen's compensation and unemployment insurance, and contributions to pension and welfare plans.

Not only do companies have reason to push their drivers beyond the limits of their endurance, many drivers are economically motivated to cooperate. In the first place, if they refuse to do so, they are often fired and then blacklisted. Moreover, very few over-the-road drivers are salaried; the vast majority are paid either by the mile or by the load. As a result, the longer they sit at the wheel rolling down the highway, the more money they make. These economic considerations translate into exhausted truck drivers operating 40-ton behemoths on the nation's highways.

The other major factor behind the driver fatigue problem is the legal/regulatory void that might otherwise prevent exhausted drivers from driving, or being required to drive, 18-wheelers. Here, the Congress and the Transportation Department's Bureau of Motor Carrier Safety ("BMCS") must share the blame. For too long, the Congress has taken a hands-off attitude toward trucking. First. It exempted the industry from the time-and-one-half provisions of the FLSA. Second, it has failed utterly to conduct meaningful oversight of the BMCS. By way of comparison, Congress took matters into its own hands and enacted legislation prohibiting railroad crews from working more than 12 consecutive hours in any 24-hour period. 45 U.S.C. § 62. And, it has recognized that the FAA's rules prohibit pilots from flying more than 30 hours per week. 14 C.F.R. § 121.471.

As the attached brief in a lawsuit will demonstrate in greater detail, nearly half a century ago when the trucking industry was in its infancy, Congress empowered the BMCS (then a division of the ICC) to promulgate rules that would prevent fatigued drivers from operating trucks. At the time, Congress recognized that truckers' hours needed to be more severely limited even than the hours of railroad crews. And Congress was concerned not only that the BMCS prevent truckers from driving too long, but also from driving after simply being awake too long, even if not working but rather waiting to be called to work. However, in the many intervening years, Congress has failed to analyze the BMCS' rules; those rules were inadequate to begin with; and, they have been steadily eroded from that time to the present.

Today, the BMCS' rules merely prohibit driving after the 15th on-duty hour, or after accumulating 70 on-duty hours in an 8-day week. They do prohibit a driver from beginning a new tour of duty until he has been off-duty 8 hours following his last tour of duty. But, they do not guarantee that those 8 hours will fall during that portion of the day when the driver is sleepy and able to obtain genuine rest. Nor do they prevent a driver from being assigned a 15-hour tour of duty after going back to bed following a long day sitting by his telephone waiting to be called to work—the problem specifically identified by Congress and earmarked for solution 50 years ago. Moreover, the rules permit companies and drivers to turn the on-duty meter on and off repeatedly during a tour of duty. Thus, by the time a driver completes a 15-hour tour of duty, many more than 15 hours may have passed since he first started his trip.

It does not require research or analysis to recognize these deficiencies in the BMCS' hours of service rules. The agency even recognized them more than 15 years ago. However, rather than remedy them at once, the agency set about to develop a new science that would establish objective criteria for recognizing, quantifying, and measuring human fatigue. So, for nearly a decade, the BMCS hired one private contractor after another to develop this science, claiming the need to develop a solid evidentiary "record" to support administrative rulemaking. Eventually, it did amass a record and it proposed an extensive revision of the entire scheme of regulations governing drivers' hour of service.

Unfortunately, as these rules were about to be promulgated, the current administration came into office and the rulemaking proceeding was terminated pursuant to Executive Order 12291 which mandated that all agencies prove that the benefits of any new rules would, in terms of dollars, exceed the costs. As I am sure you are well aware, there is no commonly accepted mathematical equation for evaluating the social, or even just economic, benefits of life against the dollar costs an industry will readily claim a new "burdensome" regulation would impose. As a result, the BMCS failed in its regulatory endeavor for want of being able to meet the new Administration's burden of proof.

This deregulatory climate bring us full circle, or back to Congress for a remedy—albeit one-half century late—to the problem of exhausted employees driving trucks that have grown enormously in size, weight, and speed in the intervening years. I would be more than happy to work with you, any member of your staff, or any other member of Congress that might be interested in learning more about this problem and developing a legislative solution to it. Thank you for your interest and concern.

Very truly yours.

Arthur L. Fox II.

THE COMMITTEE TO REPEAL THE MANDATORY SEATBELT LAW,
*Swampscott, MA, November 29, 1986.*

Senator JOHN DANFORTH,
*Chairman, Senator Commerce Committee, Senate Office Building, Washington, DC.*

DEAR SENATOR DANFORTH: I write in reference to the National Highway Traffic Safety Administration's recent proposal to amend Federal Motor Vehicle Safety Standards; Occupant Crash Protection Standard No. 208 (49 CFR Part 271).

Standard No. 208 provides that if two-thirds of the population of the United States is covered by effective safety belt use laws, which meet certain minimum requirements, by April 1, 1989, then the automatic restraint requirement will be rescinded.

This loophole has split the nation between those who strongly feel a mandatory seat belt law is a violation of their freedom and those who feel the imposed safety is worth the loss of a little freedom. It has pitted the honestly motivated citizens concerned with maintaining their constitutionally guaranteed rights against the financial might of the automotive and insurance industries.

The money being spent in this bloody battle is beyond the average person's conception; money that would be better expended by improving vehicle design or on safety education programs.

In our successful repeal campaign in Massachusetts, Traffic Safety Now, Inc., the auto industry lobby group, spent $599,350.00; In Nebraska's successful repeal campaign, $134,000 was spent to influence voters in favor of retention. Our forces campaigning for repeal spent $8875.15 and $700.00 respectively to defeat the obviously unpopular mandatory seat belt laws.

Two states across the nation have put this question before the people and two states have repealed the law. When this question is allowed to be openly debated and the electorate is given the opportunity to choose for itselt, it has chosen to repeal. There is a message here.

I spoke with your representative, Alan Maness this week and was assured that this amendment would in no way offer the auto industry an extension to continue lobbying for further mandatory seat belt use laws beyond the NHTSA April 1, 1989 deadline. That is of some comfort to me, but I wish to make a proposal at this time, understanding that these hearings open the door to any comments wished to be expressed concerning this issue.

Sir, I propose for the record that the continuation of this divisive, profit-motivated policy of allowing these large corporate entities to circumvent the requirements of NHTSA, DOT by creating impositions upon the rights and freedom of the American people be immediately and completely halted; that this requirement be based solely upon NHTSA, DOT's decision and not upon the financial capability of the self-interest of some of the largest corporations in America to place the burden upon the liberty of the American people. If NHTSA feels that airbags or other passive safety restraints are necessary when confronted by the fact that the people do not choose to use their seat belts, then let them deal with that situation through either education or their requirements without turning American industrial institutions against the poeple.

As we in Massachusetts and Nebraska have proven, and other states will soon bear out, mandatory seat belt laws are not only unpopular, but temporary. The wise representative of the people will see this in advance and act in the interest of his constituency.

Thank you for your time and interest in this very important matter.

Yours truly,

ROBERT F. FORD, *Chairman.*

Enclosure

*Question 1.* The Motor Carrier Act of 1984 required the OMC to develop an annual inspection program for commercial trucks by January 1986. OMC has yet to develop this program. When does OMC plan to issue regulations requiring an annual inspection and how does OMC plan to ensure that every truck is inspected annually once the regulation is issued?

Answer. The Federal Highway Administration is prepared to issue a Notice of Proposed Rulemaking (NPRM) addressing the proposed annual inspection program. The NPRM will allow for a 60-day comment period. Barring unforeseen delays, such as petitions for extension of the comment period, we expect to publish a final rule before the end of the year.

Upon issuance of the final rule requiring all trucks to be inspected annually we will rely on our Motor Carrier Safety investigators, State Motor Carrier Safety Assistance Program (MCSAP) inspectors, and the Commercial Vehicle Safety Alliance (CVSA) inspection teams to enforce this requirement. The MCSAP and/or CVSA inspectors, who conduct roadside inspections on a daily basis, will check for compliance during their inspections and will take appropriate action against violators. Notification of violators will be forwarded to us for entry into the carrier's file. Our safety investigators will also check for compliance with this rule during safety and compliance reviews at a carrier's place of business.

*Question 2.* At the hearing you testified that OMC is proposing six minor changes to the drivers' hours of service regulations. These changes do not appear to get to the heart of the widespread hours of service problem that exists in the trucking industry. Given the economic pressures that drivers face to exceed the 10 hour driving limit, the paperwork involved in filling out a log book, and the 30,000 false duty entries uncovered in the safety audits of carriers last year, how valid is OMC's reliance on the log book system as a means of enforcing the hours of service rules? How does your office plan to improve the recording of drivers' hours of service?

Answer. To date, the driver's record of duty status (log book) is the most viable system available. It is universally accepted and understood by both the motor carrier industry and enforcement agencies. We are, however, currently testing some alternatives to the log book method. We have one large private motor carrier who has petitioned for and received an exemption which allows the motor carrier to use an on-board interactive computer system instead of the driver's record of duty status. Thus far, we have found this system to provide a very accurate recordation of hours of service and to be very reliable. It also provides us with well documented violations when they occur. Recently, a large for-hire motor carrier petitioned us for an exemption of this type. We are now in the process of granting an exemption for a second type of on-board computer system. It not only records the driver's record of duty status but causes other operating economies which the motor carrier deems as important as the driver's record of duty status.

The fact remains that recording hours of service, in any format, does not assure compliance with the regulations. As you pointed out in your question, it is the economic pressures facing drivers which lie at the heart of the problem. Those motor carriers who pay their drivers on an hourly basis rather than on an incentive basis have virtually eliminated hours of service violations. We, of course, do not have the authority to establish regulations governing this type of labor-management policy but do encourage a voluntary dedication to safety by the industry.

In light of this, we believe our regulatory responsibility is to minimize the paperwork burden without compromising the intent and strength of the regulation. Our efforts must be focused on aggressive enforcement of the regulation. With our increased visibility resulting from our growing field staff and Motor Carrier Safety Assistance Program (MCSAP), we hope to identify and stop the violators and, in turn, change the current trend.

*Question 3.* OMC has acknowledged that motor carriers underreport accidents to OMC by as much as 40 percent; yet OMC continues to use this accident data as a basis for evaluating its safety programs and for deciding which carriers to audit. Does OMC have any plans for improving the reporting of accidents or relying on a different source of accident information?

Answer. The Motor Carrier Act of 1935 initially established the authority to require most interstate carriers to report accidents. Under this self-reporting scheme it has been noted that carrier underreporting levels may be as high as 40 percent despite penalties that such action may incur. However, accident involvement is not the only criterion for sorting companies for priority contact. Other factors in the sorting process include unsatisfactory ratings, involvements in hazardous materials incidents, and identified noncompliance. Nevertheless, accident data continues to be of prime importance in evaluating OMC safety programs. Therefore, the OMC is now planning to improve accident reporting in two very significant ways. First, the OMC has established a multi-year program to conduct safety reviews of all motor carriers who have never been audited. All safety reviews will include an examination of the motor carriers' accident reporting procedures and accident record. Unreported accidents may be grounds for prosecution. But more more importantly, it is anticipated that the personal contact with the motor carrier through this safety review process and the emphasis on enforcement for violations of the applicable safety regulations will result in a dramatic improvement in the reporting of accidents to FHWA. Second, the OMC plans to work closely with States participating in MCSAP to report through the SAFETYNET to FHWA accidents involving commercial motor vehicles. Comparison of this data provided through SAFETYNET with that submitted by motor carriers will allow unreported accidents to be identified, an attempt to be made to obtain the report from the carrier and, if necessary, prosecution of those motor carriers failing to file. This process has already been pilot tested in one of the regions with favorable results.

*Question 4.* In order to qualify for a grant under the Motor Carrier Safety Assistance Program a state must adopt and enforce the Federal Motor Carrier Safety Regulations or "compatible" state regulations. How does OMC interpret the term compatible with respect to state regulations waiving certain of the federal medical requirements for handicapped drivers? For example, would a state regulation permitting motor carrier operations by drivers missing an arm or blind in one eye be considered compatible? If that regulation required the handicapped driver to have a good driving record, would it be more likely to be judged compatible?

Answer. One of the basic premises upon which Federal funds are made available is that State resources will be employed to assure compliance with uniform and consistent national safety standards. Therefore, the first condition for receipt of a grant is that the State "agrees to adopt, and to assume responsibility for enforcing Federal rules . . ., or compatible State rules . . ." (Sec. 402, Surface Transportation Assistance Act). The "Federal rules, etc." means the Federal Motor Carrier Safety Regulations (FMCSR) and the Hazardous Materials Regulations (HMR), as they relate to the highway mode. Ideally, States would adopt these regulations in toto and enforce them as their own. As a practical alternative, however, the enforcement of corresponding State regulations to the extent they are compatible with the FMCSR and HMR is a qualifying activity. "Compatible" in this sense means the State regulations must cover the same basic framework as the Federal rules and cannot be inconsistent with the Federal rules. For instance, the FMCSR cover the qualifications and hours of service of drivers, the condition and operation of vehicles, including parts and accessories, and the inspection and maintenance practices of carriers. If the State rules failed to cover these basic areas, they would not be compatible. On the other hand, State rules may contain specific exemptions which are not included in the Federal rules so long as the exceptions do not extend to such a wide populace as to render enforcement ineffective. Limited exceptions do not necessarily equate to incompatibility.

The Federal regulations require drivers in interstate or foreign commerce to have power grasp prehension and precision in both upper limbs and to have 20/40 vision (corrected or uncorrected) in both eyes. In order to qualify for an implementation grant under MDSAP, a State must adopt and agree to enforce these regulations with respect to drivers operating commercial motor vehicles in interstate or foreign commerce. However, the agency has agreed to permit States to allow drivers missing an arm or blind in one eye to operate vehicles in intrastate commerce without jeopardizing their receipt of Federal funds under MCSAP.

*Question 5.* Several witnesses at the hearing advocated eliminating the commercial zone exemption of drivers and vehicles from the federal motor carrier safety regulations. What is your view of this exemption?

Answer. Many of the comments received in response to our Advance Notice of Proposed Rulemaking (50 FR 2998) concerning the exempt intracity zone generally support its recision. Notably, the American Trucking Associations, Inc., and the International Brotherhood of Teamsters support such a decision.

Serious consideration is being given to those and other comments. We anticipate issuance of an NPRM addressing this issue in April or May of this year.

*Question 6.* Several witnesses at the hearing testified in support of the creation of a Motor Carrier Administration within the Department of Transportation. What is your view of this proposal?

Answer. The Department does not favor establishing a separate Motor Carrier Administration because it would result in three highway-oriented agencies within

DOT, rather than two as we have now, thereby hindering the coordinated planning and implementation of highway transportation improvements. Further, additional staff and resources would be required to support this new organization.

To address trucking concerns on a continuing and comprehensive basis we have established within the FHWA a position of Associate Administrator for Motor Carriers.

The Associate Administrator for Motor Carriers serves as the primary focal point in the DOT for contacts with representatives of the motor carrier industry on all motor carrier transportation matters. This official is also instrumental in proposing new and revised legislation and in developing rules, policies, and procedures to carry out the Department's responsibilities for motor carrier transportation. Through this organizational arrangement, we have established a high level point of access within the Department for the trucking industry representatives to contact to make known their views on significant motor carrier issues.

We believe that by establishing the Associate Administrator for Motor Carrier position we are successfully addressing the principal concerns of the Congress, the motor carrier industry, and others concerning the administration of the agency's motor carrier and motor carrier safety programs.

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